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Y4.Ag8/1:M66/3/98[illegible]/pt.4

97th Congress }
2d Session }

COMMITTEE PRINT

Y4.Ag8/1:M66/3/981/pt.4

ORIGINAL
COMPLETED

MINUTES
OF THE
BUSINESS MEETINGS AND HEARINGS
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

(Pursuant to Committee Rule IVf)

PART 4

JUNE 30, 1982.—Printed for the use of the Committee on Agriculture

97th Congress }
2d Session }

COMMITTEE PRINT

MINUTES

OF THE

BUSINESS MEETINGS AND HEARINGS

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

(Pursuant to Committee Rule IVf)

PART 4

June 30, 1982.—Printed for the use of the Committee on Agriculture

U.S. GOVERNMENT PRINTING OFFICE
95-077 O WASHINGTON : 1982

COMMITTEE ON AGRICULTURE

E (KIKA) DE LA GARZA, Texas, *Chairman*

THOMAS S. FOLEY, Washington
Vice Chairman
WALTER B. JONES, North Carolina
ED JONES, Tennessee
GEORGE E. BROWN, Jr., California
DAVID R. BOWEN, Mississippi
CHARLES ROSE, North Carolina
FREDERICK W. RICHMOND, New York
JIM WEAVER, Oregon
TOM HARKIN, Iowa
BERKLEY BEDELL, Iowa
GLENN ENGLISH, Oklahoma
FLOYD J. FITHIAN, Indiana
LEON E. PANETTA, California
JERRY HUCKABY, Louisiana
DAN GLICKMAN, Kansas
CHARLES WHITLEY, North Carolina
TONY COELHO, California
TOM DASCHLE, South Dakota
BERYL ANTHONY, Jr., Arkansas[1]
CHARLES W. STENHOLM, Texas
HAROLD L. VOLKMER, Missouri
CHARLES HATCHER, Georgia
BYRON L. DORGAN, North Dakota
DON ALBOSTA, Michigan[2]

WILLIAM C. WAMPLER, Virginia
Ranking Minority Member
PAUL FINDLEY, Illinois
JAMES M. JEFFORDS, Vermont
TOM HAGEDORN, Minnesota
E. THOMAS COLEMAN, Missouri
RON MARLENEE, Montana
LARRY J. HOPKINS, Kentucky
WILLIAM M. THOMAS, California
GEORGE HANSEN, Idaho
ARLAN STANGELAND, Minnesota
PAT ROBERTS, Kansas
BILL EMERSON, Missouri
JOHN L. NAPIER, South Carolina
JOE SKEEN, New Mexico
SID MORRISON, Washington
CLINT ROBERTS, South Dakota
STEVE GUNDERSON, Wisconsin
COOPER EVANS, Iowa
GENE CHAPPIE, California

PROFESSIONAL STAFF

A. MARIO CASTILLO, *Staff Director*
ROBERT M. BOR, *Chief Counsel*
JOHN E. HOGAN, *Minority Counsel*

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[1] Resigned from the Committee October 7, 1981.
[2] Elected to the Committee December 16, 1981.

Rule IVf of the Committee on Agriculture, House of Representatives, requires that the minutes of business meetings and hearings be published on a periodic basis.

In compliance with that rule, the minutes of business meetings and hearings from February 1, 1982, through June 23, 1982, are contained in this committee print.

The committee rule follows:

f. *Publication of Minutes.*—The Chairman of the Committee, in consultation with the Ranking Minority Member, shall cause to be published as a Committee Print on a periodic basis (and insofar as practicable on a semiannual basis) the minutes of all business meetings and hearings of the Committee and any of its Subcommittees and such minutes shall include a record of the attendance of members, all recorded votes and the action on all amendments and motions relating to legislation.

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U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 1, 1982

(Sub) Committee: Tobacco and Peanuts

Meeting: public field hearing

Subject: Report mandated by the Food and Agriculture Act of 1981, "Recommendations of the Secretary of Agriculture for Achieving a No Net Cost Tobacco Program" and other general tobacco issues.

Bill Nos. ----------

The Tobacco and Peanuts (Sub) Committee met in open Session at 10:00 o'clock, in Room Auditorium, Fairmont Middle School, Fairmont, NC

The following Members were present:

Mr. Rose
Mr. Whitley
Mr. Hatcher
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hopkins
Mr. Wampler
Mr. Napier
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
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Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Carol A. Dubard, Minority Consultant, Subcommittee on Tobacco and Peanuts

Witnesses:

1. C. Hoke Leggett, Associate Administrator, ASCS, Department of Agriculture, 20013
2. J. Thomas Bunn, Acting Director, Tobacco Division, AMS, Department of Agriculture 20250
3. John W. Sledge, President,NC Farm Bureau, Raleigh, NC
   accompanied by: Dick Williamson, Kenly, NC
   William E. Little, Commodity Director, NC Farm Bureau
4. Lloyd M. Massey, Master, NC State Grange, Raleigh, NC
   accompanied by: Edwin J. Humphrey, Shannon, NC
   Phillip D. Duncan, Whiteville, NC
   James R. Oliver, Vice President, Fairmont, NC
   Willard G. Harrelson, Whiteville, NC
5. Charles R. Pugh, Extension Economist, NC Agricultural Extension Service, NC State University, Raleigh, NC
6. Gordon M. Williams, Godwin, NC
7. Fred G. Bond, General Manager, Sec/Tres, Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, NC
8. Hugh C. Kiger, Executive Vice President, Leaf Tobacco Exporters Association, Raleigh, NC
9. Bruce L. Flye, Chairman, Tobacco Associates, Inc., Battleboro, NC
10. Kirk Wayne, President, Tobacco Associates, Inc., Washington, D.C.
11. William E. Clark, Lumberton, NC
12. Delton Oxendine, Lumberton, NC
13. Neil Archie Lee, Fairmont, NC
14. Gilbert A. Lewis, Fairmont, NC
15. John C. Culbreth, Lumberton, NC
16. Julius Singletary, Lumberton, NC
17. Tracy C. Ballou, Lumberton, NC
18. Robert A. Bass, Sr., President, Young Farmer Club of Columbus County, Whiteville, NC

Statements Filed:

1. Mr. Sledge
2. Mr. Massey
3. Mr. Pugh
4. Mr. Bond
5. Mr. Kiger
6. Mr. Flye
7. Mr. Wayne

Monday, February 1, 1982
Subcommittee on Tobacco and Peanuts
public field hearing
No Net Cost Tobacco Program, et al
Fairmont, North Carolina

Chairman Rose called the Subcommittee to order at 10:00 am and heard from the witnesses in the order listed on the preceding page. Various witnesses were asked general questions by all Members of the Subcommittee.

After a break for lunch, the hearing resumed until all scheduled witnesses and members of the audience who wanted to speak had been heard from. The Chairman adjourned the hearing at 4:13 p.m., subject to the call of the chair.

Carol A. Dubard
Minority Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 4, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: Current agricultural credit conditions; authorized lending ceilings for FmHA farm and rural development credit programs

Bill Nos. none

The Conservation, Credit and Rural Development (Sub) Committee met in open Session at 9:40 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Jones (Tenn.)
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Bowen
Mr. Harkin
Mr. English
Mr. Bedell
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts (Kans.)
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts (S.D.)
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.

Also Present:
Mr. de la Garza
Mr. Wampler
Mr. Stangeland
Mr. Stenholm
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:
Jim Johnson, Staff Assistant
Bob Cashdollar, Subc. Staff Director
Steve McCoy, Staff Economist
Jerry Welcome, Staff Assistant
Bernard Brenner, Press Assistant
Bob Lowerre, Associate Counsel
Frank Winston, Staff Assistant
Roger Allbee, Minority Consultant
John Hogan, Minority Counsel
Bob Bor, Chief Counsel
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Charles Hatcher, Member of Congress from Georgia
2. Honorable Frank Naylor, Jr., Under Secretary for Small Community and Rural Development, USDA
3. Honorable Arlan Stangeland, Member of Congress from Minnesota
4. Mr. Aaron Trube, Smithfield Packing Company, Smithfield, Virginia, for Smithfield Packing Company and for American Meat Institute, Washington, D.C.
5. Mr. Paul Sacia, National Farmers Union, Washington, D.C.
6. Ms. Sarah Vogel, attorney from Bismarck, North Dakota
7. Mr. James H. Gilfoil III, farmer of Lake Providence, Louisiana
8. Mr. L. A. Davidson, State President, Mississippi American Agriculture Movement
9. Mr. Al J. Haslebacker, Deputy Governor of Farm Credit Administration for Supervision
10. Mr. Don Meers, Vice President for Credit, Federal Intermediate Credit Bank of Louisville, Louisville, Kentucky
    Acc. by: Mr. John Everage, Vice President for Executive Affairs
11. Mr. Tom Ledford, attorney from Camilla, Georgia
    Acc. by: Mr. Sam Miller, President, Mitchell County, Georgia, Farm Bureau Association, Pelham, Georgia
    Mr. Franklin Russ, farmer from Cotton, Georgia

Statements Filed:

[illegible]

February 4, 1982
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review current agricultural credit
situation; authorized lending
ceilings for FmHA farm and rural
development credit programs

Chairman Jones called the hearing to order at 9:40 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

Opening remarks were made by the Chairman and several of the other Members.

At 12:45 the Chairman announced a brief recess, following which the subcommittee continued in session without pause until 4:45 p.m.

At 4:45 p.m. the Chairman announced that the record was to remain open until the conclusion of this series of hearings for the insertion of further material requested and to be submitted. He then adjourned the hearing to reconvene at 9:30 a.m. February 9.

Christine D. Abram
Christine Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 4, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Federal Insecticide, Fungicide, and Rodenticide Act Amendments

Bill Nos. H.R. 5203

The Department OPerations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 9:45 am o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. Brown
Mr. Fithian
Mr. Panetta
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Roberts, Kans.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:
Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Tom Adams, Staff Assistant
Skip Stiles, Legis. Assistant to Mr. Brown
Peggy Pecore, Clerk

Witnesses:

1. Mr. J. B. Grant, Executive Excretary, National Assotiation of State Departments of Agriculture, Washington, D.C.,
   Accompanied by: Mr. J. Ronald Conley, Director, Pesticides Division, Georgia Department of Agriculture.

2. Ms. Stephanie Bower, Washington Representative, United Farm Workers, Washington, D.C.

3. Mr. Richard Lewis, International Chemical Workers Union, Akron, Ohio

4. Dr. Ralph Engel, President, Chemical Specialties Manfacturers Association, Washington, D.C.,
   Accompanied by: Mr. Stephen Kellner, CSMA VP of Legal Affairs
   Mr. Harvey Gold, Chairman, CSMA Government Affairs Committee, Public Affairs

5. Panel:

   Mr. Kirk Johnson, Center for Science in the Public Interest, Washington, D.C.
   Mr. Steve Brobeck, Consumer Federation of America, Washington, D.C.
   Mr. Clyde Shorey, March of Dimes, New York, New York

6. Dr. Jack Early, President, National Agricultural Chemicals Association, Washington, D.C.,
   Accompanied by: Dr. Dale Wolf

7. Dr. Harold Miller, Chairman, Legislative Committee, Pesticide Producers Association, Washington, D.C.,
   Accompanied by: Mr. Dennis M. Burchet, Greeley, Colorado

Statements Filed:

Editorial by Donald Kennedy, former Commissioner of the Food and Drug Administration, which appeared in the February 4 issue of *The Washington Post*

Open letter to Congressman Brown and Senator Lugar, and comments on Carbaryl Decision Documents, submitted by Mr. Johnson

U.S. GOVERNMENT PRINTING OFFICE [illegible]

Thursday, February 4, 1982
Subcommittee on Department Operations,
  Research, and Foreign Agriculture
Public Hearing
Federal Insecticide, Fungicide, and
  Rodenticide Act Amendments
H.R. 5203

Chairman Brown called the meeting to order and made an opening statement, after which he inserted in the record an editorial, "Science in the Dock", by Donald Kennedy in the record. Mr. Fithian also made remarks.

The witnesses listed on page two of these minutes gave their prepared testimony, after which they responded to questions from Members of the Subcommittee as appearing in the record.

After Mr. Shorey's testimony, the Chairman asked that a publication, "Guidelines for Studies of Human Population Exposed to Mutagenic Reproduction Hazards" which had been published by the March of Dimes, be made a part of the Committee files.

The Subcommittee adjourned at 12:25 p.m., to reconvene at 2:00 p.m. this date to hear additional witnesses on H.R. 5203.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 4, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Federal Insecticide, Fungicide, and Rodenticide Act Amendments

Bill Nos. H.R. 5203

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 2:20 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Brown
Mr. Fithian
Mr. Panetta
Mr. Wampler
Mr. Roberts, Kans.
Mr. Emerson
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Nick Ashmore, Staff Assistant
Tom Adams, Staff Assistant
Bernie Brenner, Press Assistant
Skip Stiles, Legislative Assistant to Mr. Brown
Peggy Pecore, Clerk

Witnesses:

1. Dr. John Todhunter, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C., accompanied by: Mr. Ed Gray, Office of General Counsel
2. Ms. Jackie Warren, Counsel, Natural Resources Defense Council, Washington, D.C.
3. Professor Thomas McGarity, University of Texas Law School, Austin, Texas
4. Mr. Tom Hecht, National Coalition Against the Misuse of Pesticides, Washington, D.C.
5. Ms Maureen Hinkle, National Aubudon Society, Washington, D.C.
6. Mr. Wally McGuire, Director of Government Affairs, California Governor's Office, Washington, D.C., accompanied by: Ms. Sue Moreland, staff
7. Mr. Theodore E. Reuter, Director, Reuter Laboratories, Haymarket, Virginia

Statements Filed:

Editorial by Russell E. Train, "The Destruction of EPA", which appeared in the February 2, 1982 issue of The Washington Post

Thursday, February 4, 1982- P.M.
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Public Hearing
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 5203

Chairman Brown called the meeting to order for the purpose of hearing remaining witnesses on the Federal Insecticide, Fungicide, and Rodenticide Act Amendments.

The witnesses listed on page two of these minutes presented their prepared testimony, after which they responded to questions from Member of the Subcommittee.

During questioning of Dr. Todhunter, Mr. Brown and Mr. Wampler indicated they would be submitting additional questions in writing to the EPA.

The Subcommittee was adjourned by Chairman Brown at 5:35 p.m., to reconvene subject to the call of the chair.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 9, 1982 -a.m.

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: Current agricultural credit conditions; authorized lending ceilings for FmHA farm and rural development credit programs

Bill Nos. none

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 9:40 am o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Daschle
Mr. Dorgan
Mr. Harkin
Mr. English
Mr. Panetta
Mr. Albosta
Mr.
Mr.
Mr.
Mr.

Mr. Roberts (Kans.)
Mr. Napier
Mr. Skeen
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Also Present:

Mr. Marlenee
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present

Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Roger Allbee, Minority Consultant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Wes Watkins, Member of Congress from Oklahoma and Chairman, Congressional Rural Caucus
   Acc. by: Mr. Frank Tsutras, Director, Congressional Rural Caucus
2. Honorable Bob Traxler, Member of Congress from Michigan
3. Honorable Kent Hance, Member of Congress from Texas
4. Mr. Charles Shuman, Administrator, Farmers Home Administration, USDA
5. Honorable Ron Marlenee, Member of Congress from Montana
6. Mr. Eben M. Graves, Jr., E. M. Graves & Co., Southport, Connecticut
7. Mr. J. R. Kuiken, President, First National Bank, DeKalb, Illinois, and Chairman, Ag-Rural America Committee, Independent Bankers Association of America, Washington, D.C.

Statements Filed:

February 9, 1982
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review current agricultural credit
situation; authorized lending
ceilings for FmHA farm and rural
development credit programs

In the absence of the Chairman, Congressman Bedell presided as Acting Chairman, calling the hearing to order at 9:38 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

At 12:50 p.m. the Chair adjourned the hearing, to reconvene at 2:00 p.m. the same afternoon.

Christine D. Abram

Christine Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 9, 1982 -p.m.

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: Current agricultural credit conditions; authorized lending ceilings for FmHA farm and rural development credit programs

Bill Nos. none

The Conservation, Credit and Rural Development (Sub) Committee

met in open Session at 2:15 pm o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Daschle
Mr. Dorgan
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Napier
Mr. Gunderson
Mr.
Mr.
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Mr.

Staff Present:

Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable James Oberstar, Member of Congress from Minnesota
2. Mr. Dale Angel, Director of Legislative Research and Policy Development, and Mr. Paul Johnson, Corporate Credit Manager, MFA, Inc., Columbia, Missouri
3. Mr. Gene Severens, Center for Rural Affairs, Walthill, Nebraska
4. Rep. Jack Hightower, Member of Congress from Texas
5. Mr. Norm Deweaver, Rural Coalition, Washington, D.C.
   Acc. by: Mr. Andy Howarth, Rural Housing Improvement, Winchedon, Massachusetts
6. Mr. Bob Fredericks, The National Grange, Washington, D.C.
7. Mr. C. L. Denton, Jr., Past President and Chairman of the Board, National Cotton Council, Memphis, Tennessee
8. Mr. David Senter, American Agriculture Movement, Washington, D.C.
   Acc. by: Mr. V. B. Morris
9. Mrs. Sue McLaurin of Dillon, South Carolina, National Spokeswoman for Women Involved in Farm Economics

Statements Filed:

February 9, 1982
Conservation, Credit, and Rural
  Development Subcommittee
Public Hearing
Review current agricultural credit
  situation; authorized lending
  ceilings for FmHA farm and rural
  development credit programs

Chairman Jones called the hearing to order at 2:15 p.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

A brief recess was called by the Chair at 3:10 p.m. to enable the Members to respond to a call from the floor of the House.

Chairman Jones announced that Members of the subcommittee would forego the privilege of questioning witnesses in deference to time constraints, but would submit any questions they wished to ask the witnesses by letter, the responses to be included in the record of the hearings.

At 4:51 p.m. the Chairman adjourned the hearing subject to the call of the Chair.

Christine D. Abram
Christine Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 10, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: Review current agricultural credit situation;; authorized lending ceilings for FmHA farm and rural development credit programs

Bill Nos. NONE

The Conservation, Credit, and Rural Development **(Sub) Committee**

met in Open **Session at** 9:40 am **o'clock, in Room** 1302 LHOB.

The following Members were present:

Mr. Jones, Tenn.
Mr. Bedell
Mr. Dorgan
Mr. Bowen
Mr. Harkin
Mr. Fithian
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts, Kans.
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.

Also present:

Mr. Stenholm
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Lowerre, Associate Counsel
Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Bernie Brenner, Press Assistant
Peggy Pecore, Clerk

Witnesses:

Mr. W. D. "Dudley" Patterson, farmer of Rome, Mississippi,
accompanied by: Bill and Leonard Patterson, his sons

Mr. Don Haldeman, dairy farmer of Norwalk, Wisconsin

Mr. Howard Ehlers, farmer of Ida Grove, Iowa
and
Mr. Dale Schnirring, farmer of Sac City, Iowa

Mr. Tom Nichols, farmer of Wolf Point, Montana,
accompanied by: Mrs. Anna Nichols, his wife

Mr. Milt Lakness, farmer of Hazel, South Dakota

Mr. John Mullenholz, National Farm & Power Equipment Dealers Association, Washington, D.C.,
accompanied by: Mr. Thad Caraway, Mid-South Farm Equipment Association, Memphis, Tennessee
Mr. Albert T. Watson, Delta Implement Company, Greenville, Mississippi
Mr. Blue Riggan, Corning Implement Company, Corning, Arkansas
Mr. Jim Manatt, President, Corning Bank, Corning, Arkansas

Statements Filed:

Honorable William C. Wampler, Member of Congress from Virginia
Mr. Howard Ehlers
Mr. Dale Schnirring
Mr. and Mrs. Tom Nichols
Honorable James M. Jeffords, Member of Congress from Vermont

Thursday, February 10, 1982
Subcommittee on Conservation, Credit,
and Rural Development
Public Hearing
To review current agricultural credit
situation; authorized lending ceilings
for FmHA farm and rural development
credit programs

Chairman Jones called the meeting to order and made an opening statement in which he announced the subcommittee would hold an addition hearing on the subject of credit conditions in Texas February 12, and that the full Committee would hear testimony and ask questions of Secretary Block on February 18. He further announced that today's witnesses represented Congressional Districts of several of the Members of the subcommittee.

All the witnesses listed on page two gave their prepared testimony, after which they were called to the table en bloc to answer questsion from the Members present.

The Pattersons and Mr. Watson were introduced by Mr. Bowen; Mr. Haldeman by Mr. Gunderson; Messrs Ehlers and Schnirring by Mr. Bedell; Mr. Lakness by Mr. Roberts of South Dakota, and the remaining members of panel No. 6 were introduced by Chairman Jones.

After announcing the record would remain open for additional statements until the Secretary had appeared before the full Committee, Chairman Jones adjourned the meeting at 12:20, to reconvene in Abilene, Texas, on February 12, 1982, to hear additional witnesses on this subject.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 11, 1982

(Sub) Committee: on Tobacco and Peanuts

Meeting: Public Field Hearings

Subject: Tobacco Program

Bill Nos. -------

The Tobacco and Peanut (Sub) Committee

met in open Session at 9:30 am o'clock in Room Florence-Darlington Technical College Florence, South Carolina

The following Members were present:

Mr.
Mr. Rose
Mr. Whitley
Mr. Wampler
Mr. Hopkins
Mr. Napier
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
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Mr.
Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Joan Teague
Carol Dubard

Witnesses:

1. E. P. Roberts - farmer
2. L. A. Brown - farmer
3. Joseph L. Carter - farmer
4. Jimmy Rowe - farmer
5. Rosco Cox - farmer
6. G. Ed King, Jr. - farmer
7. Joseph Hodges, Jr. - farmer
8. Annie Williamson Luncy - farm widow
9. Thomas S. Ragsdale, Jr.- T.S. Ragsdale Comp. Inc.
10. Mitchell H. Thomas, Jr. - farmer
11. Michael B. McKeown - Association of Agricultural Bankers
12. James W. (Billy) King - farmer
13. Rufus B. Lawaimore - farmer
14. Honorable Bryan Patrick- Commissioner of Agriculture - State of South Carolina
15. Laurie C. Lawson - Chairman, South Carolina Agriculture Commission
16. Thomas E. Smith - State Senator
17. Edward L. Phillips - South Carolina Farm Bureau - Tobacco Committee
18. Lonzo Israel - South Carolina Grange President
19. Wayne Oakes - Leaf Tobacco Exporters Association, Inc.
20. Fred G. Bond- Flue Cured Tobacco Coop. Stabilization Corp.
21. William Davis - Flue Cured Stabilization Corp.
22. John Monroe Hilliday- farmer - Pee Dee Farms
23. E. Dick Lewis- Pee Dee Warehouse Association
24. Marion S. Fowler - South Carolina Warehouse Association
25. Kirk Wayne - Tobacco Associates
26. Tommy Parham - Tobacco Associates
27. J. Mac Sprott - Assoc. of Agricultural Bankers - Nat. Bank of S.C.
28. Ben Kittrell - Clemson University
29. David L Perkins - Staff, Senator Hollings
30. James W. King - farmer

Statements Filed:

1. J. B. Williams
2. Tom Cunningham

February 11, 1982
Tobacco and Peanut Subcommittee
Public Field Hearings
Tobacco Program

Chairman Charlie Rose called the field hearing to order at 9:30 am for the purpose of hearing testimony and questioning the witnesses listed on page 2 of these Minutes.

During the hearing, the Subcommittee recessed from 1:00 pm until 2:15 pm for a short lunch break.

The Subcommittee adjourned at 4:15 pm, to reconvene subject to the call of the chair.

Joan Teague
Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 12, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Field Hearing in Abilene, Texas

Subject: Agricultural Credit

Bill Nos. --

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 9:00 A.M. o'clock, in Room Abilene Civic Center

The following Members were present:

Mr. Jones, Tn.
Mr. Roberts, S.D.
Mr.
Mr. also
Mr.
Mr. Stenholm
Mr. Hance
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Robert Cashdollar
Subcommittee Staff Director

Witnesses:

1. Charles E. Ball, Executive Vice President, Texas Cattle Feeders Assn., 5501 West I-40, Amarillo, TX. 79106
2. Tom Benson, President, Federal Land Bank, P.O. Box 2649, Houston, TX. 77001
3. Kenneth L. Burgess, President, Security State Bank, P.O. Box 471, Littlefield, TX. 79339
4. Joe F. Cargile, President, Citizens National Bank, P.O. Box 529, Crosbyton, TX. 79322
5. Cliff Cobb, President, Rolling Plains Production Credit Assn., P.O. Box 950, Stamford, TX. 79553
6. Gene Edwards, Chairman of the Board, First National Bank, P.O. Box 1331, Amarillo, TX. 79180
7. D. E. Benham, President, First State Bank, 107 West Taylor, Morton, TX. 79346
8. Edward Breilhan, Plains Coop Oil Mill, Inc., P.O. Box 1889, Lubbock, TX. 79408
9. Fred Campbell, Director, Texas Production Credit Assn., Paint Rock, TX. 76866
10. Charles Carter, Independent Cattlemen's Assn., Suite 202, 704 East Wonsley, Austin, TX. 78753
11. Key Crawford, P.O. Box 1601, Hereford, TX. 79045
12. Perry D. Elliott, P.O. Box 938, Stephenville, TX. 76401
13. Lynn E. Elrod, Assistant to the Gen. Mgr., Associated Milk Producers Inc., P.O. Box 32287, San Antonio, TX. 78284
14. Patrick N. Gerald, First National Bank, Sweetwater, TX. 79556
15. Mike Howell, Manager, Federal Land Bank of Plainview, P.O. Box 579, Planview, TX. 79072
16. Dr. Danny Kleinfelter, Texas A&M University, Agriculture Economics Department, College Station, TX. 77843
17. James A. Long, Gutherie Route, Paducah, TX. 79248
18. Mike Moeller, President, Texas Farmers Union, P.O. Box 7276, Waco, TX. 76710
19. Bayard Friedman, Chairman, Fort Worth National Bank, P.O. Box 2050, Fort Worth, TX. 76101
20. Robert W. Herren, Chairman of the Board, Haskell National Bank, P.O. Box 667, Haskell, TX. 79521
21. Dr. Rex Kennedy, Texas Tech University, P.O. Box 4169, Lubbock, TX. 79409
22. Ed Lehman, P.O. Box 1700, Vernon, TX. 76384

(Con't. page 3)

Statements Filed:

NONE

Witnesses

23. Ed McKay, Texas Farm Bureau, P.O. Box 489, Waco, TX. 76703
24. Robert W. Morford, Vice President, Gooch Packing Company, P.O. Box 2738, Abilene, TX. 79604
25. James Rogers, President, Federal Intermediate Credit Bank, P.O. Box 2626, Houston, TX. 77001
26. Bill D. Sneed, President, First Coleman National Bank, P.O. Box 552, Coleman, TX. 76834
27. Ross Wilson, Southwestern Peanut Grower's, P.O. Box 328, Gorman, TX. 76454
28. Weldon Rogers, Rolling Plains Cotton Growers, Paducah, TX.
29. Robert Van Winkle, Vice President, Federal Land Bank, P.O. Box 2649, Houston, TX. 77001
30. Ray Winn, Senior Vice President, Texas Bank of Cooperatives, P.O. Box 1424, Houston, TX. 77001

Friday, February 12, 1982
Subcommittee on Conservation, Credit,
and Rural Development
Field Hearing, Abilene, Texas
Agricultural Credit

Chairman Jones called the meeting to order at 9:00 A.M. and recognized the other members present for their statements. Witnesses were heard and questioned in panels. Following testimony of the final witness, the hearing was adjourned about 5:30 P.M., February 12, 1982.

Robert Cashdollar
Robert Cashdollar

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 12, 1982

(Sub) Committee: Tobacco and Peanut

Meeting: Joint Public Field Hearing - House and Senate

Subject: Tobacco Price Support Program

Bill Nos.

The Tobacco and Peanut Subcommittee & the Senate Agriculture, Nutrition & forestry (Sub) Committee
Committee

met in open Session at 10:00 am o'clock, in Room Kerr Scott Pavilion
N.C. State Fairgrounds Raleigh, N.C.

The following Members were present:

Tobacco & Peanut Subcommittee		Senate
Mr.	Mr.	Mr.
Mr. Rose, Chairman	Mr.	Mr. Helms, Chairman
Mr. Whitley	Mr.	Mr. Huddleston
Mr. Wampler	Mr.	Mr.
Mr. Napier	Mr.	Mr.
Mr.	Mr.	Mr. East, also present
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Joan Teague
Carol Dubard

Witnesses:

Honorable James B. Hunt, Jr. - Governor
Honorable James Graham - N.C. Commissioner of Agricul.
Honorable Bryan Patrick- S.C. Commissioner of Agricul.
Hoke Leggett - USDA
Richard Jenks - farmer
Sherrill Jernigan - farmer
Harry S. Bell -S.C. Farm Bureau
Joe Stancil - S.C. Farm Bureau
Edward Phillips - S.C. Farm Bureau
Billy W. Hill - Flue-Cured Stabilization
Frank Strickland - "
W.F. "Bill" Davis - "
James Pate - "
C. Hoover Surles - "
W.L. Williamson - "
Atlas Wooten - "
Frank Bryant - "
Mrs. Isabelle Fletcher "
Fred Bond - "
Roy Davis - "

John Sledge - N.C. Farm Bureau
William E. Little - "
Gene Lanier - "
Robert L "Bob" Nash - Ga. Farm Bureau

Lloyd Massey - N.C. State Grange
Thomas W. Allen - N.C. Grange
John Collett - N.C. Grange
Robert J. Bowers - N.C. Grange

Ron Perry - farmer
Terry Howes - farmer
Hugh Kiger - Leaf Tobacco Exporters Assoc.
John Campbell - Tobacco Assoc. of U.S.
Kirk Wayne - Tobacco Associates
Bruce Flye - Tobacco Associates

Lioniel S. Edwards - Bright Belt Warehouse

Statements Filed:

LIST OF WITNESSES CONTINUED ON ATTACHED PAGE.

LIST OF WITNESSES, continued

Donnie E. Lassiter - farmer
Faylene Whitaker - farmer
C. H. Whitfield - Farmer
L.E. Oakes - farmer
Leo L. Matthew - farmer
Lonnie Knott - farmer
Kendall Hill - farmer
Jerry Batten - farmer
S. Ward Finney - Va. Association of Farmer-Elected Committee

Wm. V. Griffin - Tobacco Growers Association of N.C.
Buzz Shackelford - Tobacco Growers Association of N.C.
Roy Ammons - Tobacco Growers Assoc.

Jerry Marston - Virginia American Agriculture Movement
J.M. Jenkins - Virginia Farm Bureau
A.K. Glass - Virginia Farm Bureau
Wayne Ashworth - "

Harold G. Allen - farmer
Norris Harrell - farmer
Eugene J. Hopper, Jr. -farmer
George B. Watson, Sr. - farmer
Lawrence T. Elliott - farmer
Sid Hatcher - farmer
Andrew Tyson - farmer
Gordon Williams - farmer
Paul McCoy - farmer

February 12, 1982
Tobacco and Peanut Subcommittee
Joint Public Field Hearings
Tobacco Price Support Program

Congressman Charlie Rose and Senator Jesse Helms jointly chaired the House-Senate field hearings in Raleigh, North Carolina. The hearing was called to order at 10:00 am. Senator Helms began the hearing with opening remarks and then the other Members of the Senate and House Subcommittee followed. Senator East joined the hearing briefly even though he is not a Member of either Committee.

Governor Jim Hunt gave the opening testimony. Farmers and Farm organizations followed Governor Hunt, gave their testimony, and answered questions. The witnesses are listed on page 2 of these Minutes.

The Joint hearing adjourned at 6:00 pm, to reconvene subject to the call of the chair.

Joan Teague

Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 15, 1982

(Sub) Committee: on Tobacco and Peanuts

Meeting: Public Field Hearing

Subject: Tobacco Program

Bill Nos. -----

The Tobacco and Peanut (Sub) Committee

met in open Session at 10:00 A.M o'clock, in Room Clinton, N.C. Samson Middle School

The following Members were present:

Mr.
Mr. Rose
Mr. Whitley
Mr. Wampler
Mr. Napier
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Staff present:

Joan Teague
Carol Dubard

Witnesses:

Bobby T. Stephenson - Farmer
Milton G. Ingram - Farmer
Harry Ivey - Farmer
Harold G. Allen - Farmer
J. Homer Butler - Farmer
Selby T. Beaman - Farmer
J. C. Pridgen - Farmer
Tom Newman - Farmer
Kendall Hill - Farmer
Edward W. Gray - Farmer
James T. Hill Jr. - Farmer
Marie B. Barfield - Farmer
Robert Lyndall Thornton - Farmer
Ralph M. Denton - Farmer
W. E. Bill Johnson Jr. - Farmer
E. J. Davis - Farmer
Calvin Hoover Surles - Farmer
J. W. Branch - Farmer
Paul K. Phillips - Farmer
Vaden Lucas - Farmer
James O. Davis - Farmer
Jimmy R. Rhodes - Farmer

Larry Wooten - farmer

Statements Filed:

February 15, 1982
Tobacco and Peanut Subcommittee
Public Field Hearings
Tobacco Program

Chairman Charlie Rose called the field hearing to order at 10:00 am for the purpose of hearing testimony and questioning the various witnesses listed on page 2 of these Minutes.

During the hearing, the Subcommittee recessed from 12:30-1:30 pm for a short lunch break.

The Subcommittee adjourned at 3:12 pm, to reconvene subject to the call of the chair.

Joan Teague

Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 16, 1982

(Sub) Committee: Tobacco and Peanuts

Meeting: Public Field Hearing

Subject: Tobacco Program

Bill Nos. ----

The Subcommittee on Tobacco and Peanuts (Sub) Committee met in open Session at 10:00 A.M. o'clock, in Room Kinston, N.C. Kings Restaurant

The following Members were present:

Mr. Rose
Mr. Jones, N.C.
Mr. Wampler
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Joan Teague
Carol Dubard

Witnesses:

James H. Joyner - Farmer

James E. Todd - President, Leaf Tobacco Exporters Association, INC.

Kenneth W. Jones - Farmer

James T. Hill Jr. - Farmer

John F. Mewdorne - Retired Farmer

Lloyd B. Stevens - Farmer

William H. Heath - Farmer

Kendall Hill - Farmer

Leroy R. Whitfield - Farmer

James W. York - U.S.D.A.

Robert A. Avery - Farmer

Ben S. Lovelace Jr. - Farmer

Statements Filed:

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February 16, 1982
Tobacco and Peanut Subcommittee
Public Field Hearings
Tobacco Price Support Program

Chairman Charlie Rose called the Field hearing to order at 10:00 am for the purpose of hearing testimony and questioning the various witnesses listed on page 2 of these Minutes.

The field hearing adjourned at 12:15 pm, to reconvene subject to the call of the chair.

Joan Teague
Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 17, 1982 -- a.m.

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Oversight of USDA Extension Service, Science and Eduation Administration

Bill Nos. none

The Department Operations, Research, & Foreign Agric. (Sub) Committee met in open Session at 10:00 am o'clock, in Room 1301 LHOB.

The following Members were present:

		Also present:
Mr. Brown (Calif.)	Mr. Wampler	Mr. Coleman
Mr.	Mr. Thomas	Mr.
Mr.	Mr. Roberts, Kans.	Mr.
Mr.	Mr. Evans	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

Anita Brown, Staff Assistant
Ron Baker, Staff Member
Tom Adams, Staff Consultant
Jerry Jorgensen, Minority Consultant
Bernard Brenner, Press Secretary
Charles Benbrook, Subcommittee Staff Consultant
Christine Abram, Staff Assistant

Staff present:

Witnesses:

1. Mr. Raymond D. Lett, Executive Assistant to the Secretary of Agriculture
2. Dr. Mary Nell Greenwood, Federal Administrator for Extension, USDA
3. Dr. Gordon E. Guyer, Chairman, Extension Committee on Organization and Policy (ECOP), and State Extension Director, Michigan

Statements Filed:

February 17, 1982 -- morning
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing
Oversight of USDA Extension Service

Chairman Brown called the meeting to order at 10:00 a.m. Note was made for the record that the Chairman congratulated the four Members then present for being present and punctual.

Following opening remarks by Chairman Brown, Mr. Wampler, and Mr. Roberts of Kansas, the subcommittee heard and questioned the witnesses listed on page 2 of these Minutes.

At 12:32 p.m. the Chair adjourned the hearing, to reconvene at 2:00 p.m. the afternoon of the same day.

Christine D. Abram
Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, February 17, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Oversight of USDA Extension Service, Science and Education and Administration

Bill Nos. None

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 2:12 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Brown, Calif.
Mr. Wampler
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
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Mr.
Mr.

Staff present:

Charles Benbrook, Subcommittee Staff Director
Jerry Jorgensen, Minority Consultant
Anita Brown, Staff Assistant
Tom Adams, Staff Assistant
Ron Baker, Consultant
Peggy Pecore, Clerk

Witnesses:

1. Panel: Virginia Cooperative Extension Service

   Dr. William E. Lavery, President, Virginia Polytechnic Institute and State University, Blacksburg, Virginia (Virginia Tech)

   Dr. M. R. Geasler, Interim Dean/Director, Virginia Cooperative Extension Service, Blacksburg, Virginia

   Dr. David S. Barrett, District Extension Leader, West Central District, Roanoke, Virginia

   Ms. Jo-Anne Barton, Extension Specialist, Food and Nutrition, Virginia Tech

   Dr. J. Paxton Marshall, Extension Economist, Agricultural Public Policy, Virginia Tech

   Dr. Robert L. McElwee, Extension Specialist, Forestry and Outdoor Recreation, Virginia Tech

   Mr. M. C. Harding, Sr., Administrator, 1890 Extension Program, Virginia State University, Petersburg, Virginia

   Dr. Robert Doyle, Extension Agent, Fairfax County, Va.

   Ms. Betty J. Adams, Extension Agent, Alexandria, Virginia

2. Mr. Brian P. Crowley, Associate Director, Community and Economic Development Division, General Accounting Office, Washington, D.C.

3. Mr. Walter Hess, General Accounting Office Staff

4. Mr. Grant A. Shrum, Executive Vice President, National 4-H Council

Statements Filed:

Wednesday, February 17, 1982 - P.M.
Subcommittee on Department Operations,
 Research, and Foreign Agriculture
Public Hearing
Oversight of USDA Extension Service

Chairman Brown called the meeting to order for the purpose of hearing the remaining witnesses on Oversight of the USDA Extension Service.

The witnesses listed on page two of these minutes gave their prepared testimony and responded to questions from Members of the Subcommittee as appearing in the record.

The meeting was adjourned at 4:35 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 18, 1982

~~(Sub)~~ Committee: Full

Meeting: Public Hearing

Subject: To consider the 1983 budget proposals for USDA and related agencies

Bill Nos. None

The Full ~~(Sub)~~ Committee

met in Open Session at 10:05 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones, Tenn.
Mr. Brown, Calif.
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Daschle

Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Hagedorn
Mr. Coleman
Mr. Hopkins
Mr. Thomas
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Chris ALdrete, Special Counsel
Bernie Brenner, Press Secretary
Steve McCoy, Staff Economist
Steve Adams, Staff Assistant
Tom Adams, Staff Assistant
Charles Benbrook, Subc. Consultant
Bob Cashdollar, Subc. Staff Dir.
Dave Ebersole, Minority Consultant
Floyd Gaibler, Minority Consultant
Jerry Jorgensen, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Honorable John R. Block, Secretary of Agriculture

acc. by: Mr. Richard E. Lyng, Deputy Secretary

Mr. Frank W. Naylor, Jr., Assistant Secretary, Small Community and Rural Development

Miss Mary C. Jarratt, Assistant Secretary, Food and Consumer Service

Mr. Stephen B. Dewhurst, Budget Officer, Department of Agriculture

Statements Filed:

Honorable Tom Hagedorn, Member of the Committee from Minnesota

Thursday, February 18, 1982
Full Committee
Public Hearing
To consider the 1983 budget proposals
for USDA and related agencies

Chairman de la Garza called the meeting to order and made an opening statement. Mr. Wampler also made remarks.

Secretary Block summarized his prepared statement following which he and his associates responded to questions from Members of the Committee as appearing in the record.

Mr. Napier introduced Representatives John J. Snow and Danny Bundrick, Chairman and Member of the Committee on Agriculture of the South Carolina House of Representatives, and they were welcomed by the Committee.

Mr. Wampler informed the Secretary he would submit questions to the Department for written responses, and Chairman de la Garza, on behalf of Mr. Richmond who could not be present, submitted questions to Miss Jarratt for her reply.

The Chairman announced the record would remain open for a few days to enable Members to submit statements.

The Committee adjourned at 1:25 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 22, 1982

(Sub) Committee: Tobacco and Peanuts

Meeting: Public Field Hearing

Subject: Tobacco Program

Bill Nos. ----

The Tobacco and Peanut (Sub) Committee

met in open Session at 9:30 A.M. o'clock, in Room Lexington, Ky.

The following Members were present:

Mr. Rose
Mr. Hopkins
Mr. Napier
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Staff present:

Joan Teague

Carol Dubard

Witnesses:

Scotty Baesler - Mayor of Lexington

J.W. York - USDA

Milton Shuffett - College Professor

S.J. Stokes, Jr. - Vice President Kentucky Farm Bureau

Hiter Woods - Burley Producers Marketing

Joe McDaniel - President Burley Tobacco Growers

James A. Finch- President Burley Action Warehouse

Frank B. Snodgrass - Vice President Burley and Dark Leaf Tobacco

Ernest B. Hillenmeyer - Powker Tobacco Co.

Lucian T. Robinson

John F. Lackey - Farmer

William H. Balden - Farmer

Hampton H. Henton - Farmer

Thomas O. Harris - Farmer

Charles Appleman - Farmer

Gary Lee Wheeler - Farmer

Statements Filed:

U.S. GOVERNMENT PRINTING OFFICE [illegible]

February 22, 1982
Tobacco and Peanut Subcommittee
Public Field Hearings
Tobacco Price Support Program

Chairman Charlie Rose called the field hearing to order at 9:30 am for the purpose of hearing testimony from farmers and farm organizations and the questioning of the various witnesses listed on page 2 of these Minutes.

The Subcommittee adjourned at 12:40 pm, to reconvene subject to the call of the chair.

Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, February 23, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing -- a.m.

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 9:30 o'clock, in Room 1302.

The following Members were present:

Mr. Jones, Tenn. (Chrm.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. English
Mr. Richmond
Mr. de la Garza, ex officio
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts (Kans.)
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts (S.Dak.)
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.

Members Also Present:
Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
Cris Aldrete, Special Counsel
John Hogan, Minority Counsel
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Bernie Brenner, Press Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant

Witnesses:

1. Hon. Philip McBride Johnson, Chairman, Commodity Futures Trading Commission, Washington, D.C.

   Acc. by: Mr. Tom Loughran, Director, Enforcement
   Mr. John Manley, Director, Trading and Marketing
   Mr. Dennis Dutterer, General Counsel
   Dr. Jim Culver, Director, Economics and Education
   Ms. Susan Wagner, Executive Director

2. Hon. Charles A. Bowsher, Comptroller General of the United States, General Accounting Office, Washington, D.C.

   Acc. by: Mr. Ralph Lowry, Senior GAO Evaluator
   Mr. Henry Eschwege, Director, Division of Community and Economic Development
   Mr. James Noel, Evaluator

Statements Filed:

None

U.S. GOVERNMENT PRINTING OFFICE 81—[illegible]

Tuesday, February 23, 1982
Conservation, Credit, and Rural Development
Subcommittee
Public Hearing -- a.m.
Futures Trading Act of 1982
H.R. 5447

Chairman Jones (Tenn.) called the meeting to order and made a brief opening statement on the need for the hearings. He also submitted for printing in the record two reports of the Subcommittee entitled "The 1979-80 Silver Futures Markets--A Review" and "Report on a Study of the March 1979 Chicago Wheat Futures Contract".

Chairman de la Garza of the full Committee on Agriculture was present and made opening remarks on the need for reauthorization of the Commodity Futures Trading Commission. Mr. Jeffords, the Ranking Minority Member of the Subcommittee, also made an opening statement. Remarks were also presented by Mr. Coleman, a member of the Subcommittee.

Mr. Roberts (Kans.) introduced the newest Commissioner of the Commodity Futures Trading Commission, Hon. Kalo Hineman of Kansas. Mr. Jones introduced the other Commissioners present: Hon. James M. Stone and Hon. Susan Phillips. He also presented former Commissioners John V. Rainbolt and Read Dunn. The special guests were greeted by the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the Futures Trading Act of 1982 and the need for changes in current law. Following their presentations the witnesses were questioned by the Subcommittee.

Mr. Coleman asked that the CFTC be permitted to submit for the record any comments they would wish to make concerning an article in today's Washington Post. There was no objection. Since Mr. Glickman was unable to return to the Committee room to question the CFTC witnesses, Chairman Jones asked that Members be given permission to submit questions in writing to the witnesses for the record. There was no objection.

Mr. Daschle asked that the draft GAO report referred to in the Washington Post article and discussed by the Subcommittee and witnesses be entered in the record and there was no objection.

At 12:20 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to receive additional testimony on H.R. 5447, the Futures Trading Act of 1982.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, February 23, 1982

(Sub) Committee: Ad Hoc on Budget

Meeting: Open Business

Subject: To consider FY 1983 USDA budget proposals

Bill Nos. None

The Ad Hoc Budget **(Sub) Committee**

met in Open **Session at** 2:05 p.m. **o'clock, in Room** 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Brown, Calif.
Mr. Bowen
Mr. Weaver
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Roberts, Kans.
Mr. Gunderson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

A. Mario Castillo, Staff Director
Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Steve Adams, Staff Assistant
Tom Adams, Staff Assistant
Charles Benbrook, Subc. Staff Director
Anita Brown, Staff Assistant
John Bailey, Minority Consultant
Jerry Jorgensen, Minority Consultant
Jerry Welcome, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

USDA officials present to discuss the budget requests:

Dr. Anson Bertrand, Director of Science and Education,
for: Agricultural Research Service
Cooperative State Research Service
Extension Service

Mr. Richard Smith, Administrator, Foreign Agricultural Service,
for: Foreign Agricultural Service
P. L. 480

Dr. Joan Wallace, Administrator, Office of International Cooperation Development,
for: Office of International Cooperation Development

Statements Filed:

NONE

Tuesday, February 23, 1982
Ad Hoc Subcommittee on the Budget
Open Business Meeting
To consider FY 1983 USDA budget
proposals

Chairman de la Garza called the meeting to order for the purpose of presentations by Department of Agriculture officials on the FY 1983 budget requests for agencies under their jurisdictions. A summary of the budget for the Department and related agencies, prepared by staff, is attached.

Mr. Roberts was recognized to read into the record a statement by Mr. Wampler, who could not be present, which contained a series of suggested reordering of priorities for the budget for the Agricultural Research Service. Dr. Bertrand was called to the witness table to respond to some of the questions.

Dr. Bertrand then gave an overview of the budget requests for the Agricultural Research Service, the Cooperative State Research Service, and the Extension Service, after which he responded to questions as appearing in the record.

Mr. Richard Smith and Dr. Joan Wallace were called to the table to brief the Members of the budget requests for the Foreign Agricultural Service, Public Law 480, and the Office of International Cooperation Development. After their presentations, they responded to questions from Members of the Subcommittee.

Mr. Brown chaired the meeting at 3:00 p.m., and at 3:25 p.m., the Subcommittee adjourned to meet again at 10:00 a.m. on Wednesday, February 24, 1982, to hear funding request presentations by other USDA agencies.

Peggy Pecore

Peggy Pecore

DETAILED BUDGET SUMMARY BY AGENCY

Prepared by staff - House Committee on Agriculture - 2/17/82

AGRICULTURAL COOPERATIVE SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and expenses	BA	4,500	4,639	3,683			
	O	3,242	4,621	3,683			
Miscellaneous Contributed Funds	BA	36	18	--			
	O	50	28	--			
TOTAL - Agricultural Cooperatives Services	BA	4,536	4,657	3,683			
	O	3,292	4,649	3,683			

Prepared by staff - House Committee on Agriculture - 2/17/82

AGRICULTURAL MARKETING SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Market News	BA	14,565	15,192	13,743			
	O	14,565	15,192	13,743			
Inspection, grading, and standardization	BA	31,441	15,901	13,411			
	O	33,197	15,901	13,411			
Market Protection and Promotion	BA	5,407	2,491	1,662			
	O	5,407	2,491	1,662			
Wholesale Market Development	BA	1,418	1,463	--			
	O	1,210	1,463	--			
Market Supervision and Assistance	BA	3,357	3,186	2,554			
	O	2,883	3,186	2,554			
SUBTOTAL - AMS	BA	56,188	38,233	31,370			
	O	52,267	38,233	31,370			
Payments to States	BA	1,600	1,000	--			
	O	1,630	1,000	--			
TOTAL - AGRICULTURAL MARKETING SERVICE	BA	57,788	39,233	31,370			
	O	58,905	39,233	31,370			

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AGRICULTURAL RESEARCH SERVICE
1983 BUDGET REQUEST
(in thousands of dollars).

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Research on Animal	BA	76,338	80,144	91,273			
Production	O	74,123	78,630	87,207			
Research on Plant	BA	157,669	167,916	183,260			
Production	O	153,093	164,745	175,097			
Research on Soil,	BA	53,743	55,129	64,211			
Water and Air	O	52,183	54,088	61,351			
Human Nutrition	BA	31,400	25,206	27,644			
Research	O	30,489	24,730	26,412			
Marketing and Consumer	BA	83,865	85,567	90,068			
Research	O	81,431	83,951	86,056			
Repair and Maintenance	BA	22,816	10,716	11,092			
of Facilities	O	15,075	22,884	16,392			
Contingency Research	BA	1,000	1,000	1,000			
Fund	O	1,000	1,000	1,000			
Buildings &	BA	--	8,596	--			
Facilities	O	15,751	8,776	9,800			
Trust Funds	BA	2,447	2,000	2,000			
	O	1,384	1,560	1,820			
TOTAL - AGRICULTURAL	BA	429,278	436,274	470,548			
RESEARCH SERVICE	O	424,529	440,364	465,135			

Prepared by staff - House Committee on Agriculture - 2/17/82

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses	BA	208,834	62,000	62,046			
	O	183,278	80,100	60,378			
Farm Income Stabilization							
Dairy Indemnity Payment Program	BA	200	176	--			
	O	42	177	--			
Conservation							
Agricultural Conservation Program	BA	190,000	190,000	56,000			
	O	200,876	190,000	153,720			
Forestry Incentives Program	BA	12,500	12,500	--			
	O	19,152	14,300	--			
Water Bank Program	BA	10,000	8,800	--			
	O	11,433	11,000	--			
Emergency Conservation Program	BA	10,000	8,800	--			
	O	15,701	18,500	--			
Rural Clean Water Program	BA	20,000	--	--			
	O	1,808	10,800	11,600			
TOTAL - AGRICULTURAL STABILIZATION & CONSERVATION SERVICE	BA	453,034	282,276	118,046			
	O	432,308	324,877	225,698			

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses							
Plant Disease and Pest Control							
Pink Bollworm	BA	3,330	2,408	591			
	O	3,389	2,388	591			
Citrus black fly	BA	1,808	—	--			
	O	1,603	—	--			
Mediterranean fruit fly	BA	14,244	8,855	8,275			
	O	23,827	9,772	8,275			
Boll weevil	BA	1,722	1,697	1,029			
	O	1,537	1,683	1,029			
Grasshopper	BA	2,911	1,327	—			
	O	3,265	1,306	--			
Gypsy Moth	BA	5,005	5,191	673			
	O	4,472	5,147	673			
Witchweed	BA	4,732	4,723	—			
	O	4,564	4,683	--			
Golden nematode	BA	977	1,007	--			
	O	1,137	998	--			
Fire ant	BA	6,000	5,915	2,625			
	O	3,706	5,865	2,625			

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ANIMAL AND PLANT HEALTH INSPECTION SERVICE (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Noxious weeds	BA	1,670	E 789	--			
	O	1,650	782	--			
Agricultural quarantine inspection	BA	41,136	44,416	45,336			
	O	39,183	43,290	46,306			
Other plant programs	BA	10,083	9,417	9,050			
	O	8,493	10,074	10,300			
TOTAL - PLANT DISEASES AND PEST CONTROL	BA	90,618	85,745	67,579			
	O	95,171	86,259	69,379			
Salaries and Expenses							
Animal Disease and Pest Control							
Brucellosis eradication	BA	90,415	90,896	59,696			
	O	89,052	92,110	59,896			
Tuberculosis eradication	BA	5,682	5,544	4,014			
	O	5,171	5,497	4,014			
Western Hemisphere animals-Screwworm	BA	43,055	46,086	52,740			
	O	39,227	45,696	52,740			
Import-export inspection	BA	5,908	6,297	4,725			
	O	6,038	6,244	6,525			
Animal welfare	BA	4,510	4,882	1,509			
	O	4,158	4,841	1,509			

ANIMAL AND PLANT HEALTH INSPECTION SERVICE (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Horse Protection	BA	330	242	148			
	O	362	240	148			
Veterinary biologics	BA	7,529	7,619	8,217			
	O	7,566	7,554	8,217			
Control of other contagious animal	BA	29,391	27,606	25,250			
	O	31,244	27,374	z 25,250			
TOTAL - ANIMAL DISEASE AND PEST CONTROL	BA	188,767	190,651	157,454			
	O	182,920	191,022	159,254			
Contingency Funds	BA	2,500	986	2,500			
	O	2,469	986	2,500			
TOTAL - ANIMAL AND PLANT HEALTH INSPECTION SERVICE	BA	282,644	277,382	227,533			
	O	280,560	278,259	231,133			

Legislation currently pending before the Committee on Agriculture:

H.R. 5455 by Mr. Wampler, a bill to authorize intrastate quarantines of animals, animal carcasses and animal products under extraordinary emergency conditions. The legislation would expand the power of the Secretary of Agriculture to act in emergencies due to dangerous communicable diseases of livestock and poultry.

Prepared by Staff of the House Agriculture Committee - 2/17/82

COMMODITY CREDIT CORPORATION
1983 BUDGET REQUEST
(in thousands of dollars)

		1981 Actual	1982 Estimated	1982 CBO Est.	1983 Request	1983 CBO Est.	Subc. Rec.	Comments
Price Support and Related Activities								
Reimbursement to CCC	BA	3,299,887	7,043,229	NA	—	NA		
for realized losses	O	--	--	--	--	--		
Increase in borrowing	BA	--	--	NA	--	NA		
ing authority	O	--	5,000,000	NA	--	NA		
Authority to borrow	BA	872,853	--	NA	2,730,274	NA		
(permanent)	O	--	--	--	--	--		
Wheat	BA	—	--	--	*	--		
	O	1,542,602	950,638	1,817,000	*	1,231,000		
Feedgrains	BA	--	--	--	*	--		
	O	- 532,641	2,466,313	5,223,000	*	2,070,000		
Cotton	BA	--	--	--	*	--		
	O	335,686	728,715	950,000	*	629,000		
Rice	BA	—	--	--	*	--		
	O	24,016	35,394	102,000	*	46,000		
Soybeans	BA	--	---	--	*	--		
	O	86,748	- 17,328	10,000	*	10,000		
Peanuts	BA	--	--	--	*	--		
	O	27,798	78,504	75,000	*	50,000		
Tobacco	BA	--	--	--	*	--		
	O	- 51,163	- 29,005	- 82,000	*	25,000		

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COMMODITY CREDIT CORPORATION (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

		1981 Actual	1982 Estimated	1982 CBO Est.	1983 Request	1983 CBO Est.	Subc. Rec.
Sugar	BA	--	--	--	*	--	
	O	- 120,567	- 6,428	- 10,000	*	--	
Dairy	BA	--	--	--	*	--	
	O	1,893,833	1,544,485	1,907,000	*	1,972,000	
Export Credit	BA	--	--	--	*	--	
	O	- 983,039	- 536,273	- 436,000	*	- 152,000	
Storage facilities	BA	--	--	--	*	--	
	O	- 67,085	- 187,273	- 231,000	*	- 254,000	
Emergency feed	BA	--	--	--	*	--	
	O	328,504	50,000	60,000	*	60,000	
Net Interest	BA	--	--	--	*	--	
	O	220,263	856,267	1,370,000	*	1,300,000	
FCIC Crop Indemnity	BA	--	--	--	--	--	
	O	250,000	--	--	--	--	
SUBTOTAL - COMMODITY CREDIT CORPORATION	BA	4,172,740	12,043,229	NA	2,730,274	NA	
	O	3,994,229	6,298,607	11,351,000	1,819,000	7,382,000	
Wool Act	BA	34,520	42,078	NA	44,632	NA	
	O	42,078	44,632	NA	31,000	NA	

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COMMODITY FUTURES TRADING COMMISSION
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses	BA	18,781	19,924	22,999			
	O	18,298	19,526	22,539			
TOTAL - COMMODITY FUTURES TRADING COMMISSION	BA	18,781	19,924	22,999			
	O	18,298	19,526	22,539			

Legislation currently pending before the Committee on Agriculture:

H.R. 5447 by Mr. Jones of Tennessee - A bill to reauthorize the Commodity Futures Trading Commission. This legislation would reauthorize for four years the basic activities of the Commission with respect to trading in futures contracts. A number of amendments may be offered which would make substantial changes in the basic authorizing statutes.

COOPERATIVE STATE RESEARCH SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Federal Administration (direct)	BA	1,512	1,363	781			
	O	1,499	1,363	781			
Competitive Research Grants	BA	16,000	16,320	22,880			
	O	12,725	25,722	19,362			
Special Research Grants	BA	17,076	21,899	21,424			
	O	10,547	19,439	20,356			
Cooperative Forestry Research	BA	10,744	12,031	10,807			
	O	11,529	11,969	10,868			
Payments to Agricultural Experiment Stations (Hatch Act)	BA	128,615	141,109	144,495			
	O	126,512	137,629	151,770			
Payments to 1890 colleges and Tuskegee Institute	BA	19,270	21,492	21,674			
	O	28,597	23,768	22,105			
Continuing Animal Health Research	BA	6,500	5,760	—			
	O	6,233	5,797	288			
Grants for Alcohol Fuels	BA	500	540	540			
	O	350	446	589			
Native Latex Research	BA	650	702	702			
	O	260	448	704			
1890 Research Facilities	BA	—	—	8,800			
	O	—	—	1,760			
TOTAL - COOPERATIVE STATE RESEARCH	BA	200,897	221,216	232,103			
	O	198,992	226,581	228,583			

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DEPARTMENTAL STAFF OFFICES
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Office of the Secretary	BA	5,028	4,715	5,406			
	O	5,714	4,607	5,406			
Departmental Administration	BA	13,541	14,468	13,647			
	O	14,742	14,034	13,647			
Office of Governmental and Public Affairs	BA	8,881	8,628	7,752			
	O	7,523	8,628	7.752			
Office of Inspector General	BA	38,752	40,828	43,918			
	O	37,732	40,136	43,226			
Office of the General Counsel	BA	12,519	13,330	14,197			
	O	12,080	13,078	13,457			
Working Capital Fund	BA	--	--	--			
	O	348	--	--			
TOTAL - DEPARTMENTAL STAFF OFFICES	BA	78,721	81,969	84,920			
	O	78,139	80,483	83,488			

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ECONOMIC RESEARCH SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981* Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses	BA	--	39,360	40,584			
	O	--	39,112	40,329			
Miscellaneous Contributed Funds	BA	--	50	50			
	O	--	72	50			
TOTAL - ECONOMIC RESEARCH SERVICE	BA	--	39,410	40,634			
	O	--	39,184	40,379			

* Funding for this activity was provided under appropriations for the Economics, Statistics, and Cooperatives Service (ESCS) in FY 1981.

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ENVIRONMENTAL PROTECTION AGENCY - PESTICIDES
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses	BA	33,197	31,238	28,139			
	O	32,850	33,577	28,709			
Abatement, Control and Compliance	BA	29,280	22,220	20,534			
	O	22,527	27,014	25,493			
Research and Development	BA	2,292	279	2,108			
	O	2,743	331	3,042			
TOTAL - ENVIRONMENTAL PROTECTION AGENCY - PESTICIDES	BA	64,769	53,738	50,782			
	O	58,120	60,903	57,244			

Legislation currently pending before the Committee on Agriculture:

H.R. 5203 by Mr. Brown of California - A bill to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act. This legislation would reauthorize the pesticide legislation and enforcement activities of the Environmental Protection Agency and the States and make comprehensive changes in the basic authorizing statute.

EXTENSION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Payments under the Smith-Lever Act							
Sec. 3(b) & (c)	BA	205,382	219,376	219,376			
	O	203,567	218,435	217,215			
Sec. 3(d)							
Urban Gardening	BA	3,000	3,000	--			
	O	3,000	1,680	--			
Expanded nutrition & education	BA	55,017	60,354	60,534			
	O	54,632	59,992	59,992			
Pesticide impact assessment	BA	1,805	1,850	1,716			
	O	1,792	1,838	1,704			
Pest management program	BA	7,435	7,531	7,067			
	O	7,383	7,485	7,021			
Farm safety	BA	1,020	1,020	--			
	O	1,020	663	--			
Nonpoint source pollution	BA	--	702	--			
	O	--	698	--			
Energy	BA	300	324	285			
	O	298	322	283			
Federal Administration (direct)	BA	6,084	6,321	4,528			
	O	6,020	6,096	4,303			
Renewable Resources Extension Act	BA	--	2,000	--			
	O	--	1,800	--			

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EXTENSION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
1890 land-grant institutions	BA	11,250	12,241	17,602			
Tuskegee	O	11,172	12,168	16,977			
Payments under Bankhead-	BA	11,500	--	--			
Jones Act	O	11,500	--	--			
Payments to the District	BA	910	983	983			
of Columbia	O	904	977	977			
TOTAL-EXTENSION SERVICE	BA	303,769	315,702	311,911			
	O	301,288	312,154	308,472			

Legislation currently pending before the Committee on Agriculture:

Farmer-to-Consumer Direct Marketing Act - This legislation would authorize $1,500,000 for FY 1983 for technical and financial assistance to encourage farmers to market their products directly to consumers.

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FARMERS HOME ADMINISTRATION
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses	BA	252,630	274,543	294,206			
	O	243,691	277,516	292,016			
Agricultural Credit Insurance Fund							
Farm Ownership Loans	LA	(813,285)	(825,000)	(775,000)			
Operating loans	LA	(847,603)	(1,375,000)	(1,510,000)			
Emergency disaster	LA	(5,112,290)	(1,600,000)	(1,540,000)			
Economic emergency	LA	(1,245,354)	--	--			
Irrigation & drainage loans to associations	LA	(297)	(7,400)	--			
Grazing loans to associations	LA	--	(4,800)	--			
Watershed protection & flood prevention loans	LA	(16,912)	(26,000)	--			
Resource conservation development	LA	(1,965)	(4,000)	--			
Indian tribe acquisition loans	LA	(3,566)	(11,900)	(12,000)			

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FARMERS HOME ADMINISTRATION (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
ACIF - continued							
Soil and water loans to individuals	LA	(49,613)	(53,100)	(31,000)			
Recreation loans to individuals	LA	(1,835)	(2,400)	--			
Rural Development Insurance Fund							
Water and waste disposal loans	LA	(750,000)	(375,000)	(300,000)			
Community facility loans	LA	(260,000)	(130,000)	(130,000)			
Business and Industrial development loans	LA	(652,280)	(550,000)	--			
Community and Regional Development Grants							
Water and waste disposal development grants	BA O	200,000 268,886	125,000 254,641	120,000 204,228			
Rural development grants	BA O	5,000 9,054	-- 7,506	-- 5,378			
Rural community fire protection grants	BA O	3,500 3,710	3,250 3,273	-- 1,508			

Legislation currently pending before the Committee on Agriculture:

1) Reauthorization of the Farmers Home Administration lending programs. This legislation would renew expiring statute imposing monetary limitations on the numerous lending and related farm and rural development activities of the Farmers Home Administration in the Department of Agriculture.

2) H.R. 2977, Beginning Farmers Assistance Act. This legislation would authorize Federal guarantees of loans made by the States to assist beginning farmers.

3) H.R. 4576, Rural Enterprise Zone Development Act. This legislation would authorize Federal financial assistance to rural business zones and provide certain tax incentives therefor.

4) H.R. 4347, South Dakota water project. This legislation would authorize the Secretary of the Interior to proceed with development of a South Dakota pipeline project, provide for the study of other South Dakota water projects, and make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

Prepared by staff - House Committee on Agriculture - 2/17/82

FEDERAL CROP INSURANCE CORPORATION
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Federal Crop Insurance Corporation Administrative & Operating Expenses	BA	57,739	117,600	293,703			—
	O	41,997	117,600	235,104			
Premium Subsidy	BA	—	57,456	145,575			
	O	—	57,456	145,575			
Limitation on Administrative & Operating Expenses	BA	—	—	—			
	O	6,318	—	—			
All Other	BA	—	250,000*	277,658			
	O	- 47,133	36,485	- 62,685			
TOTAL - FEDERAL CROP INSURANCE CORP.	BA	57,739	425,056	716,936			
	O	1,182	211,541	317,994			

* $250 million for subscription to capital stocks.

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FEDERAL GRAIN INSPECTION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses	BA	25,062	5,600	5,195			
	O	21,322	5,600	5,195			
Inspection and Weighing	BA	—	—	—			
	O	7,708	1,000	—			
TOTAL - FEDERAL GRAIN INSPECTION SERVICE	BA	25,062	5,600	5,195			
	O	29,030	6,600	5,195			

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Prepared by staff - House Committee on Agriculture - 2/17/82

FOOD AND NUTRITION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Food Donations Program							
Commodity distribution to Indian tribes and trust territories	BA O	41,385 26,237	48,020 48,020	53,980 53,980			
Payments to distributing agencies for administration	BA O	399* 350*	200* 200*	11,220 9,020			

* In FY 1981 and FY 1982 additional funds for this purpose were provided in the Food Stamp Program account.

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Food Stamp Program							
Food Stamps	BA O	11,470,000 11,252,902	11,300,000* 11,244,450	9,541,707 9,562,600			

* Included in this amount for FY 1982 is a supplemental request of $1,006,616,000.

FOOD AND NUTRITION SERVICE (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Nutrition Assistance to Puerto Rico	BA	—	—*	825,000			
	O			779,600			
Nutrition Assistance to territories (Guam, Commonwealth of the Northern Mariana Islands, American Samoa and the Virgin Islands)	BA	—	—	43,760			
	O	—	—	41,570			
Commodity supplemental food program	BA	27,040	29,760	--			
	O	23,921	29,680	560			

* In FY 1982, $206,500,000 to fund this program beginning in July 1, 1982 through September 30, 1982, was included in the Food Stamp Program account.

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Legislation currently pending before the Committee on Agriculture:

Legislation to reauthorize the Food Stamp Program for FY 1983.

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FOOD SAFETY AND INSPECTION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses							
Poultry Inspection	BA	90,605	93,981	97,373			
	O	90,742	94,185	97,373			
Meat Inspection	BA	204,524	212,147	219,803			
	O	204,837	212,606	219,803			
Other	BA	2,100	2,100	2,700			
	O	2,100	2,100	2,700			
SUBTOTAL	BA	297,229	308,228	319,876			
Federal funds	O	297,679	308,891	319,876			
Trust Funds	BA	537	719	719			
	O	646	719	719			
TOTAL - FOOD SAFETY	BA	297,766	308,947	320,595			
& INSPECTION SERVICE	O	298,325	309,610	320,595			

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FOREIGN ASSISTANCE PROGRAM P.L. 480
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Sales of agricultural commodities for foreign currencies and for dollars on credit terms (Titles I and III)	BA	441,330	295,127	378,000			
	O	441,330	295,127	378,000			
Commodities supplied in connection with dispositions abroad (Title II	BA	787,600	704,873	650,000			
	O	787,600	704,873	650,000			
TOTAL - P.L. 480 (Appropriations)	BA	1,228,930	1,000,000	1,028,000			
	O	1,228,930	1,000,000	1,028,000			

The estimates include proposed changes in Administrative Provisions as follows:

1. Delete the following provision:

None of the funds available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the U.S. Senate and the Committee on Agriculture in the U.S. House of Representatives.

This change removes language that restricts the flexibility needed to make changes to improve organization effectiveness and efficiency. The Forest Service will continue to consult with the Appropriations Committees, Committees on Agriculture, Nutrition and Forestry, and individual members of Congress concerned, prior to effecting any such change.

2. Amend the following provision:

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System [limitation] appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

This change recognizes that the National Forest System is now an appropriation rather than an appropriation limitation.

3. Delete the following provision:

Funds available under the Act of March 4, 1913 (16 U.S.C. 501), may be merged with and made a part of Construction and Land Acquisition and/or the National Forest System appropriations.

This change is proposed to accompany the legislative proposal that would repeal a paragraph of the Act of March 4, 1913 that requires 10 percent of funds be available in those States in which the receipts were derived. See the proposed language change for Construction for further information.

4. Delete the following provision:

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

This change recognizes that the Forest Service has no authority to change the appropriation structure. The House and Senate Committees on Appropriations will continue to be consulted prior to submitting proposed changes.

5. Add the following provision:

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research and technical information and assistance in foreign countries.

This change allows the Forest Service to use its appropriations to provide research and technical assistance, through the Agency for International Development (AID) and the Office of International Cooperation and Development (OICD) in foreign countries with Forest Service-related programs.

The Food and Agriculture Act of 1977 (7 U.S.C. 3291) authorizes the Secretary of Agriculture to engage in activities related to international agricultural research and extension and to "Assist the Agency for International Development with agricultural research and extension programs in developing countries;..."

The OICD fiscal year 1982 Agriculture and Related Agencies Act appropriation language specifically includes funds to carry out 7 U.S.C. 3291, "...including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291),..."

Authority is delegated to OICD under 7 C.F.R. 2.64 to "coordinate Department programs in international scientific and technical cooperation." OICD funds are provided to finance this coordination function but are not available to carry out the projects that other agencies of the Department are engaged in.

Since the Secretary has delegated the coordination authority to OICD, and funds are specifically appropriated to OICD for this purpose, Forest Service funds to participate in the "carryout" function of the program are not available without express language in the appropriation act. The proposed administrative provision would provide the needed authority.

6. Add the following provision:

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited on the applicable national forest. Such funds, when recovered, may be expended and recovered on any national forest.

This change results from removal of this language from a specific appropriation to the administrative provisions section.

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FOREIGN AGRICULTURAL SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Foreign Agricultural Affairs	BA	18,458	20,805	22,221			
	O	16,905	20,750	22,221			
Foreign Market Development	BA	31,845	35,660	39,900			
	O	28,523	35,660	39,900			
Commodity Analysis and Services	BA	10,513	11,229	17,086			
	O	9,769	11,229	17,086			
Special Foreign Currency Program	BA	--	—	—			
	O	319	387	251			
TOTAL - FOREIGN AGRICULTURAL SERVICE	BA	60,816	67,694	79,207			
	O	55,516	68,026	79,458			

FOREST SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 CBO	Req. Est.	Subc. Rec.	Comments
Forest Research								
Land Resource Protection	BA	50,073	49,220	43,950				
	O	42,591	50,169	44,460				
Renewable Resource Management and Utilization	BA	58,380	61,172	54,040				
	O	52,268	61,984	54,755				
Total Research	BA	108,453	110,392	97,990				
	O	94,859	112,153	99,215				
State and Private Forestry Cooperation								
Land and Resource Protection	BA	40,955	36,245	31,170				
	O	29,983	39,729	31,681				
Renewable Resource Management and Utilization	BA	23,450	22,337	13,350				
	O	19,383	22,744	15,031				
General Forestry Assistance	BA	6,762	5,080	3,000				
	O	6,009	5,449	3,360				
Total State and Private	BA	71,167	63,662	47,520				
	O	55,375	67,922	50,072				

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FOREST SERVICE (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
National Forest System							
Land and Resource Protection	BA	396,063	296,519	308,502			
	O	401,794	307,127	306,208			
Renewable Resource Management and Utilization.	BA	415,425	431,643	467,389			
	O	446,217	442,807	463,124			
General Administration	BA	267,097	238,629	260,678			
	O	247,748	214,766	258,194			
Total National Forest System	BA	1,078,585	1,043,391	1,036,569			
	O	1,095,759	1,032,100	1,037,326			
Subtotal of Research, State and Private and National Forest System	BA	1,271,647	1,140,845	1,177,413			
	O	1,260,129	1,144,775	1,177,413			
Construction	BA	417,348	254,497	297,505			
	O	355,750	475,181	344,588			
Land Acquisition	BA	—	26,262	7,563			
	O	—	21,010	11,303			
Total Appropriated Funds (Including monies for acquisition of lands)	BA	1,697,220	1,429,222	1,493,847			
	O	1,623,553	1,648,584	1,540,004			

FOREST SERVICE (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Forest Service Permanent Appropriation (Significant Items of Interest only)							
Timber Purchaser Roads, Constructed by Forest Service	BA	44,896	40,200	44,900			
	O	52,598	53,624	41,274			
Timber Salvage Sales	BA	11,884	2,389	7,900			
	O	9,440	3,270	7,349			
Payments to States National Forests Fund		233,623	229,210	328,768			
Total Permanent Appropriation	BA	432,493	376,825	491,760			
	O	413,016	382,744	486,408			
Cooperative Work (Trust Fund)	BA	153,465	145,000	146,600			
	O	117,593	105,456	146,280			
TOTAL - REGULAR FOREST SERVICE	BA	2,283,179	1,950,507	2,132,207			
	O	2,154,162	2,136,784	2,172,692			

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Forest Service - Other Administration Proposed Initiatives

1. The removal of references to the Youth Conservation Corps--funding is not requested for fiscal 1983.
2. Repeal of the requirement that 10 percent of National Forest System timber sale receipts be set aside for construction of roads and trails in the affected States.
3. Repeal of project specific language covering the Bald Mountain Road project (language originally included by this Committee as part of the Reconciliation Act).
4. Repeal of language authorizing funds for range betterment to be carried over from FY 1981 to FY 1982. Little, if any, funds are expected to remain avilable from FY 1982.
5. Merge certain categories into new budget heading "Land Acquisition"
6. Authorize immediate use of deposits, acceptance of gifts, bequests, and donations for research (existing law requires that they be subject to appropriations action).
7. Authorize the collection of user fees for recreation uses of the National Forest System. Legislation will be inclusive and is being developed in consultation with the Department of the Interior and is expected to generate approximately $36 million from all sources (Interior and USDA lands).
8. Authorize the sale of excess public lands, including lands deemed to be in a higher use if in private ownership--such as timber or crop production. Legislation will be developed following the issuance of an Executive Order to establish a Federal Property Review Board. Anticipated revenues from all sources, begin at $1,000,000,000 in fiscal year 1983 and rise to $4 billion in the out years.
9. A series of 7 changes in Administrative provisions - see attached.

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Forest Service - Legislation currently pending before the Committee on Agriculture

1. H.R. 3021, to authorize the Secretary of Agriculture to convey certain National Forest System lands (small tracts). This legislation would simplify procedures for disposition of thousands of small tracts in national forests not suitable for national forest use.
2. H.R. 4932 and H.R. 5012, bills related to problems with timber sales contracts. These bills would address problems facing purchasers of national forest timber as a result of depressed housing and lumber market.
3. H.R. 5281, Mount St. Helens National Volcanic Area. This legislation would create a special national area in the vicinity of the Mt. St. Helens volcano.

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HUMAN NUTRITION INFORMATION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses							
Human Nutrition	BA	—	8,732	7,739			
Research	O	—	6,089	7,739			
Food and Nutrition	BA	—	471	550			
Information	O	—	460	550			
TOTAL - HUMAN NUTRITION	BA	—	9,203	8,289			
INFORMATION SERVICE	O	—	6,549	8,289			

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NATIONAL AGRICULTURAL LIBRARY
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expense	BA	8,822	8,279	9,016			
	O	8,123	7,709	8,632			
TOTAL - NATIONAL AGRICULTURAL LIBRARY	BA	8,822	8,279	9,016			
	O	8,123	7,709	8,632			

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OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses	BA	3,500	3,627	3,703			
	O	6,047	3,627	3,703			
Scientific activities overseas (Special foreign currency program)	BA	5,000	450	2,977			
	O	5,405	5,318	4,818			
Consolidated working fund	BA	—	—	—			
	O	- 5,559	—	—			
Miscellaneous contributed funds	BA	9,843	7,690	10,095			
	O	8,076	9,500	10,095			
TOTAL - OFFICE OF INTERNATIONA COOPERATION AND DEVELOPMENT	BA	18,343	11,767	16,775			
	O	13,969	18,445	18,616			

OFFICE OF TRANSPORTATION
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Office of Transportation							
Salaries & Expenses	BA	2,000	2,400	2,398			
	O	1,713	2,400	2,398			
TOTAL - OFFICE OF TRANSPORTATION	BA	2,000	2,400	2,398			
	O	1,713	2,400	2,398			

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OFFICE OF RURAL DEVELOPMENT POLICY
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses	BA	—	1,875	2,501			
	O	—	1,780	2,376			
Rural Development Planning Grants	BA	5,000	—	—			
	O	5,155	3,073	977			
TOTAL - OFFICE OF RURAL DEVELOPMENT POLICY	BA	5,000	1,875	2,501			
	O	5,155	4,853	3,353			

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PACKERS AND STOCKYARDS ADMINISTRATION
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual*	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses	BA	8,971	8,806	8,564			
	O	8,971	8,806	8,564			
TOTAL - PACKERS AND STOCKYARDS ADMINISTRATION	BA	8,971	8,806	8,564			
	O	8,971	8,806	8,564			

*Activities of the Packers and Stockyards Administration were provided by the Agricultural Marketing Service (AMS) in FY 1981.

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RURAL ELECTRIFICATION ADMINISTRATION
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
RURAL ELECTRIFICATION ADMINISTRATION (ON BUDGET)							
Salaries and Expenses	BA	28,309	29,673	30,340			
	O	28,023	29,670	30,334			
Rural Communication Development Fund	BA	--	--	91			
	O	--	--	91			
Authority to Borrow	BA	17,158	573	1,345			
	O	3,354	5,828	11,227			
TOTAL - RURAL ELECTRIFICATION ADMINISTRATION (ON BUDGET)	BA	45,467	30,246	31,776			
		31,377	35,498	41,652			

RURAL ELECTRIFICATION ADMINISTRATION (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND (OFF BUDGET)							
Insured loans electric	LA	(850,000)	(850,000)	(625,000)			
Insured loans telephone	LA	(249,788)	(250,368)	(75,000)			
Guaranteed loans electric	LA	(4,994,960)	(4,100,000)	(3,615,000)			
Guaranteed loans telephone	LA	(136,367)	(145,000)	(145,000)			
RURAL TELEPHONE BANK (OFF BUDGET)							
Capitalization of Rural Telephone Bank	BA	22,500	30,000	--			
	O	22,500	30,000	--			
Authority to Borrow	BA	103,997	132,978	162,634			
	O	91,200	126,375	155,430			
Rural Telephone Bank	LA	(159,949)	(185,000)	(185,000)			
TOTAL - RURAL TELEPHONE BANK (OFF BUDGET)	BA	126,497	162,978	162,634			
	O	113,700	156,375	155,430			

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U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, February 23, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing -- p.m.

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 2:00 o'clock, in Room 1302

The following Members were present:

Mr. Jones, Tenn. (Chrm.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. English
Mr. Richmond
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
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Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
Bob Cashdollar, Subcommittee Staff Director
Frank Winston, Staff Assistant
Roger Allbee, Minority Consultant
Bernie Brenner, Press Assistant
Fowler West, Legislative Assistant
Glenda Temple, Staff Assistant

Witnesses:

1. Hon. Neal Smith, Member of Congress from Iowa.

   Acc. by: Dr. John W. Helmuth, Agricultural Economist

2. Mr. Howard A. Stotler, Chairman, Futures Industry Association, Inc., 1919 Pennsylvania Avenue, N.W., Washington, D.C.20006

   Acc. by: Mr. Charles Robinson, Vice President

3. Panel: The Association of the Bar of the City of New York:

   Mr. Thomas A. Russo, Chairman, Cadwalader, Wickersham & Taft, One Wall Street, New York, New York 10005

   Mr. Charles P. Nastro, Shearson/American Express Inc., 1 Western Union International Plaza, New York, New York 10004

   Mr. Richard E. Nathan, Marshall, Bratter, Greene, Allison & Tucker, 430 Park Avenue, New York, New York 10022

   Mr. Howard Schneider, Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, New York 10022

Statements Filed:

1. Hon. James M. Stone, Commissioner, Commodity Futures Trading Commission, Washington, D.C.

2. Letters submitted for the record from:

   Thomas L. Krebs, Director, Alabama Securities Commission, Suite 1001 1st Southern Federal Tower, 100 Commerce Street, Montgomery, Alabama

   Willis F. Kirkpatrick, Director, State of Alaska, Department of Commerce & Economic Development, Pouch D, Juneau, Alaska 99811

Continued

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Tuesday, February 23, 1982
Conservation, Credit, and Rural Development
Subcommittee
Public Hearing -- p.m.
Futures Trading Act of 1982
H.R. 5447

Statements Filed Con't:

Richard S. Gebelein, Attorney General State of Delaware, Department of Justice, 820 N. French Street, Wilmington, Delaware 19801

James F. Whitescarver, Jr., Director of Securities, Government of the District of Columbia, Office of the Public Service Commission, 451 Indiana Avenue, N.W., Washington, D.C.20001

Michael J. Bowers, Attorney General, Department of Law, State of Georgia, Atlanta, Georgia

David Hart Wunder, Securities Commissioner, State of Illinois, Springfield, Illinois

K. Houston Matney, Securities Commissioner, Division of Securities, 26 S. Dalvert Street, Baltimore, Maryland 21202

Michale Unger, Director, Commonwealth of Massachusetts, Office of the Secretary of State, Securities Division, 1 Ashburton Place, Boston, Massachusetts 02108

E. C. Mackey, Director, Department of Commerce, Box 30004 Law Building, Lansing, Michigan 48909

Mary Alice Brophy, Commissioner of Securities and Real Estate, State of Minnesota, St. Paul, Minnesota 55101

Richard D. Latham, Securities Commissioner, State Securities Board, State of Texas, 1800 San Jacinto, Austin, Texas

Richard R. Malmgren, Commissioner of Securities, State of Wisconsin, 111 W. Wilson Street, Madison, Wisconsin 53701

3. Statements of complaints from:

Richard A. Card - National Coal Exchange
John Eyberg - PMA Commodities
A. Stephen Jorgensen - L. B. Daniels Agency
John Doe (victim requested anonymity) - Capitol First Financial Corp.
Mrs. H. G. Weddendorf - Capitol First Financial Corp. and North America Coal Exchange
Walter J. Gatti - Annapolis Funding Co.

Tuesday, February 23, 1982
Conservation, Credit, and Rural Development
  Subcommittee
Public Hearing -- p.m.
Futures Trading Act of 1982
H.R. 5447

Chairman Jones (Tenn.) called the meeting to order and recognized the witnesses listed on page 2 of these minutes for their prepared testimony on the Futures Trading Act of 1982. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

In addition to the legislation cited as the topic of the hearing, Congressman Smith discussed a bill which he had introduced -- H.R. 624 -- and which he would like to have included in the bill reported by the Subcommittee.

At 4:10 p.m. the meeting was adjourned to reconvene at 9:30 a.m. on Wednesday, February 24, to hear additional witnesses discuss legislation to reauthorize the Commodity Futures Trading Commission and to amend the Commodity Exchange Act.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, February 24, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing -- a.m.

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Conservation, Credit, and Rural Development **(Sub) Committee**

met in open **Session at** 9:30 **o'clock, in Room** 1302.

The following Members were present:

Mr. Jones (Tenn.)(Chrm.)
Mr. Bedell
Mr. Glickman
Mr. Daschell
Mr. English
Mr. Richmond
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Roberts (Kans.)
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr. Wampler
Mr. ex officio
Mr.
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Mr.

Staff Present:

Bob Bor, Chief Counsel
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Roger Allbee, Minority Consultant
Dave Ebersole, Staff Assistant
Bernie Brenner, Press Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant

Witnesses:

1. Panel:

   Mr. Lee H. Berendt, Executive Vice Chairman, Commodity Exchange, Inc., New York, New York

   Mr. Robert K. Wilmouth, President and Chief Executive Officer, Board of Trade of the City of Chicago, Chicago, Illinois.

   Dr. Clayton K. Yeutter, President, Chicago Mercantile Exchange, Chicago, Illinois

2. Panel:

   Mr. Bennett J. Corn, President, Coffee, Sugar & Cocoa Exchange, Inc., New York, New York

   Mr. David H. Morgan, President, MidAmerica Commodity Exchange, Chicago, Illinois

   Dr. Alvin W. Donahoo, Executive Vice President, Minneapolis Grain Exchange, Minneapolis, Minnesota

Statements Filed:

None

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SOIL CONSERVATION SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Watershed planning	BA	10,813	8,690	9,152			
	O	10,381	8,900	9,165			
River Basin Surveys & Investigations	BA	18,323	15,500	16,743			
	O	17,464	15,726	16,677			
Watershed Protection Flood Prevention	BA	192,524	192,045	117,721			
	O	205,398	201,343	143,186			
Conservation Operations	BA	311,863	310,809	336,580			
	O	305,231	307,394	341,003			
Resource Conservatio and Development	BA	34,046	26,000	10,312			
	O	36,391	27,789	17,168			

SOIL CONSERVATION SERVICE (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Great Plains Conservation Program	BA	20,664	21,500	15,308			
	O	24,238	21,588	20,409			
Soil and Water Conservation Grants	BA	0	0	10,000			
	O	0	0	7,500			
Miscellaneous Contributed Funds (all programs)	BA	760	900	700			
	O	991	936	736			
TOTAL - SOIL CONSERVATION SERVICE	BA	588,993	575,444	516,516			
	O	600,094	583,676	555,844			

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Prepared by staff - House Committee on Agriculture - 2/17/82

STATISTICAL REPORTING SERVICE
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981* Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries & Expenses							
Crop and Livestock	BA	—	45,675	46,941			
Estimates	O	—	45,450	46,729			
Statistical Research	BA	—	5,961	6,753			
and Service	O	—	5,900	6,700			
Miscellaneous Contrib-	BA	—	12	12			
uted Funds	O	—	12	12			
TOTAL - STATISTICAL	BA	—	51,648	53,706			
REPORTING SERVICE	O	—	51,362	53,441			

* Funding for this activity was provided by appropriations for the Economics, Statistics and Cooperatives Service (ESCS) in FY 1981.

WORLD AGRICULTURAL OUTLOOK BOARD
1983 BUDGET REQUEST
(in thousands of dollars)

Program		1981 Actual	1982 Estimated	1983 Request	1983 Req. CBO Est.	Subc. Rec.	Comments
Salaries and Expenses	BA	1,731	1,422	1,535			
	O	1,374	1,706	1,535			
TOTAL - WORLD AGRICULTURAL OUTLOOK BOARD	BA	1,731	1,422	1,535			
	O	1,374	1,706	1,535			

Wednesday, February 24, 1982
Conservation, Credit, and Rural Development
  Subcommittee
Public Hearing -- a.m.
Futures Trading Act of 1982
H.R. 5447

Chairman Jones (Tenn.) called the meeting to order and recognized the witnesses listed on page 2 of these minutes for their prepared testimony on reauthorization of the Commodity Futures Trading Commission. Following presentation of their statements, the witnesses were questioned by the Members of the Subcommittee.

Several of the witnesses submitted for the record certain supporting documents. At 12:25 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to hear additional testimony on the Futures Trading Act of 1982.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, February 24, 1982

(Sub) Committee: Ad Hoc on the Budget

Meeting: Open Business

Subject: To consider FY 1983 USDA budget proposals

Bill Nos. None

The Ad Hoc Budget (Sub) Committee

met in Open Session at 10:12 am. o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. de la Garza
Mr. Bowen
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Coleman
Mr. Roberts, Kans.
Mr. Gunderson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT

Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Steve Adams, Staff Assistant
Jerry Welcome, Staff Assistant
Peggy Pecore, Clerk

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Witnesses:

USDA officials present to discuss the budget requests:

Mr. Charles Shuman, Administrator, Farmers Home Administration,
accompanied by: Mr. Mike Brunner, Associate Administrator,
Mr. Dwight Calhoun, Assistant Administrator for Community Programs
for: Farmers Home Administration

Mr. Harold Hunter, Administrator, Rural Electrification Administration, for that agency

Mr. Wayne Fletcher, President, Federal Crop Insurance Corporation,
accompanied by: Mr. Ray Hastings, Comptroller, FCIC, for that agency

Statements Filed:

None

Wednesday, February 24, 1982
Ad Hoc Subcommittee on the Budget
Open BUsiness meeting
To consider FY 1983 USDA budget
proposals

Chairman de la Garza called the meeting to order and asked Mr. Shuman, Mr. Hunter, and Mr. Fletcher to come to the witness table.

Mr. Shuman made a brief statement after which he responded to several questions from Members of the Subcommittee relative to the funding requests for the Farmers Home Administration.

Members then directed questions to Mr. Hunter relative to the budget for the Rural Electrification Administration, and to Mr. Fletcher about the request for the Federal Crop Insurance Corporation.

The Subcommittee adjourned at 11:45 a.m. to reconvene at 2:00 p.m. this date, to hear representatives from other agencies of the Department of Agriculture.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 24, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing -- p.m.

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Conservation, Credit, and Rural Development (Sub) Committee

met in open Session at 2:00 o'clock, in Room 1302.

The following Members were present:

Mr. Jones (Tenn.)(Chrm.)	Mr.	Mr.
Mr. Bedell	Mr.	Mr.
Mr. Glickman	Mr.	Mr.
Mr. Daschle	Mr.	Mr.
Mr. Richmond	Mr.	Mr.
Mr. Jeffords	Mr.	Mr.
Mr. Coleman	Mr.	Mr.
Mr. Roberts (Kans.)	Mr.	Mr.
Mr. Skeen	Mr.	Mr.
Mr. Gunderson	Mr.	Mr.
Mr. Evans	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Roger Allbee, Minority Consultant
Dave Ebersole, Staff Assistant
Glenda Temple, Staff Assistant
Bernie Brenner, Press Assistant
Fowler West, Legislative Assistant

Witnesses:

1. Mr. Leo Melamed, President, National Futures Association, Chicago Illinois

   Acc. by: Patricia Carlile, Acting Executive Director
   John Stassen, General Counsel

2. Mr. Gerald L. Fishman, Fishman Merrick Perlman & Nagelberg, 30 N. LaSalle Street, Chicago, Illinois 60602 on behalf of Dowdex Corporation

3. Mr. Carl W. Ek, Legislative Assistant, National Farmers Union, Washington, D.C.

4. Mr. Bruce Hawley, Assistant Director, Washington Office, American Farm Bureau Federation, Washington, D.C.

5. Mr. Don Eret, American Agriculture Movement, Inc., Washington, D.C.

6. Mr. Michael Unger, Director, Massachusetts Securities Division, representing North American Securities Administrators Association, Washington, D.C.

   Acc. by: Mr. Richard D. Latham, Texas Securities Commissioner
   Mr. Orestes J. Mihaly, Assistant Attorney General in charge of New York State Bureau of Investor Protection and Securities
   Mr. K. Houston Matney, Maryland Securities Commissioner

Statements Filed:

None

Wednesday, February 24, 1982
Conservation, Credit and Rural Development
  Subcommittee
Public Hearing -- p.m.
Futures Trading Act of 1982
H.R. 5447

Chairman Jones (Tenn.) called the meeting to order to continue consideration of the Futures Trading Act of 1982. The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on reauthorization of the Commodity Futures Trading Commission as well as on the need for certain changes in current law. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 4:30 p.m. Acting Chairman Glickman adjourned the meeting to reconvene at 9:30 a.m. on Thursday, February 25, to hear additional witnesses.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, February 24, 1982

(Sub) Committee: Ad Hoc on the Budget

Meeting: Open Business

Subject: To consider FY 1983 USDA budget proposals

Bill Nos. None

The Ad Hoc Budget (Sub) Committee

met in Open Session at 2:12 p.m. o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Brown, Calif
Mr. Weaver
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Coleman
Mr. Roberts, Kans.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Stenholm
Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Steve Adams, Staff Assistant
Nick Ashmore, Staff Assistant
Tom Adams, Staff Assistant
Charles Benbrook, Subc. Staff Director
Richard Fritz, Minority Consultant
Greg Skillman, Subc. Staff Director
Peggy Pecore, Clerk

Witnesses:

USDA officials present to discuss the budget requests:

Forest Service:

Mr. Douglas W. MacCleary, Deputy Assistant Secretary, Natural Resources and Environment
Mr. R. Max Peterson, Chief, Forest Service
Mr. J. Lamar Beasley, Program and Legislation, Forest Service

Soil Conservation Service:

Mr. David G. Unger, Associate Chief, SCS

Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation:

Mr. Everett Rank, Administrator, ASCS

Statements Filed:

NONE

Wednesday, February 24, 1982 P.M.
Ad Hoc Subcommittee on the Budget
Open Business Meeting
To consider FY 1983 USDA budget
proposals

Chairman de la Garza called the meeting to order and invited agency representatives, whose names are listed on page two, to come to the witness table to discuss the budget proposals for their agencies.

Assistant Secretary MacCleary made remarks about the funding proposal for the Forest Service, after which Mr. Peterson briefed Members, using a series of charts. Both officials responded to questions from Members as appearing in the record.

Mr. Unger and Mr. Rank responded to questions relative to funding requests for SCS and ASCS, and Mr. Stenholm asked for information to be furnished him at a later date on the Agricultural Conservation Program for the last ten years.

There being no further questions, the Chairman adjourned the meeting at 3:30 p.m., to reconvene at 10:00 a.m. on Thursday, February 25, 1982, to hear representatives of additional agencies of the Department of Agriculture.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 25, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing - a.m.

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Conservation, Credit, and Rural Development (Sub) Committee

met in open Session at 9:30 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.), Chrm.	Mr.	Mr.
Mr. Glickman	Mr.	Mr.
Mr. Daschle	Mr.	Mr.
Mr. Dorgan	Mr.	Mr.
Mr. Richmond	Mr.	Mr.
Mr. Coleman	Mr.	Mr.
Mr. Roberts (Kans.)	Mr.	Mr.
Mr. Napier	Mr.	Mr.
Mr. Skeen	Mr.	Mr.
Mr. Morrison	Mr.	Mr.
Mr. Gunderson	Mr.	Mr.
Mr. Evans	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

Bob Bor, Chief Counsel
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant

Witnesses:

1. Panel:

   Mr. Daniel G. Amstutz, Goldman, Sachs & Co., New York, New York, and Chairman of the Commodity Exchange Committee of the National Grain and Feed Association, on behalf of the National Grain and Feed Association, Washington, D.C.

   Mr. John J. Conheeney, Chairman, Merrill Lynch Commodities, Inc., New York, New York

   Mr. Sidney Hamper, Clayton Brokerage Company, Clayton, Missouri

2. Panel:

   Mr. David F. Simon, Simon, Deitch, Siefman and Tucker, counsel for First National Monetary Corporation, Southfield, Michigan

   Mr. Louis E. Carabini, President and Chairman of the Board, Monex International, Ltd., Los Angeles, California

   Mr. James J. Groberg, Chairman of the Board, International Precious Metals Corporation, Florida

3. Mr. William F. Brooks, President and General Counsel, National Grain Trade Council, 1030 15th Street, N.W., Washington, D.C.

Statements Filed:

None

Thursday, February 25, 1982
Conservation, Credit, and Rural Development
  Subcommittee
Public Hearing - a.m.
Futures Trading Act of 1982
H.R. 5447

Chairman Jones (Tenn.) called the meeting to order for the purpose of receiving additional testimony on the necessity for reauthorizing the Commodity Futures Trading Commission and possible amendments to the Commodity Exchange Act. The witnesses listed on page 2 of these minutes were recognized for their prepared statements and following their presentations were questioned by the Members of the Subcommittee.

Without objection, Chairman Jones (Tenn.) received permission for Mr. Richmond to submit questions in writing to the witnesses. In addition, Mr. Jones inserted into the hearing record a copy of a letter to Commissioner Stone in 1979 setting forth the conferees intent on leverage contracts.

At 12:10 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to receive additional testimony.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 25, 1982

(Sub) Committee: Ad Hoc on the Budget

Meeting: Open Business

Subject: To consider FY 1983 USDA budget proposals

Bill Nos. None

The Ad Hoc Budget Subcommittee (Sub) Committee

met in Open Session at 10:10 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Richmond
Mr. Harkin
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Coleman
Mr. Roberts, Kans.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Stenholm
Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Steve Adams, Staff Assistant
Bernie Brenner, Press Secretary
Nick Ashmore, Staff Assistant
Tom Adams, Staff Assistant
Carolyn Cheney, Subc. Staff Director
Lynn Gallagher, Staff Assistant
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
George Palmer, Subc. Staff Director
Peggy Pecore, Clerk
Anita Brown, Staff Assistant

Witnesses:

USDA officials present to discuss the budget requests:

Food and Nutrition Service:

Honorable Mary C. Jarratt, Assistant Secretary, Food and Consumer Services
Ms. Christie Schmidt, Acting Director, Office of Policy and Program Analysis, FNS

Animal and Plant Health Inspection Service:

Dr. Harry Mussman, Administrator
Dr. John Atwell, Deputy Administrator, Veterinary Services
Mr. W. F. Helms, Associate Deputy Administrator, Plant Protection and Quarantine

Agricultural Marketing Service:

Mr. William T. Manley, Deputy Administrator, Program Operations

Statements Filed:

none

U.S. GOVERNMENT PRINTING OFFICE 81—72783-1pm

Thursday, February 25, 1982
Ad Hoc Subcommittee on the Budget
Open Business Meeting
To consider FY 1983 USDA budget
proposals

Chairman de la Garza called the meeting to order and invited Department of Agriculture officials, whose names are listed on page two, to come to the witness table.

Secretary Jarratt made brief remarks, after which she responded to questions from Members regarding the proposed budget for the Food and Nutrition Service. Without objection, Mr. Richmond received permission to submit questions to Miss Jarratt for a written response by March 2. These questions are in addition to the ones Chairman de la Garza submitted on behalf of Mr. Richmond when Secretary Block appeared before the full Committee on February 18.

Dr. Mussman was joined by his associates at the table, and they responded to questions relative to the Animal and Plant Health Inspection Service.

Members then questioned Mr. Manley about the Agricultural Marketing Service funding reuqest.

Mr. Stenholm chaired the meeting at 11:35 a.m. until the Submitted adjourned at 12:10 p.m., to reconvene at 2:00 p.m. this date to hear remaining USDA and related agengy officials on budget proposals.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 25, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing -- p.m.

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Conservation, Credit, and Rural Development (Sub) Committee

met in open Session at 2:00 o'clock, in Room 1302

The following Members were present:

	Other Members Present:	
Mr. Jones (Tenn.), Chrm.	Mr. Volkmer	Mr.
Mr. Glickman	Mr.	Mr.
Mr. Daschle	Mr.	Mr.
Mr. Richmond	Mr.	Mr.
Mr. Roberts (Kans.)	Mr.	Mr.
Mr. Skeen	Mr.	Mr.
Mr. Gunderson	Mr.	Mr.
Mr. Evans	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

Bob Cashdollar, Subcommittee Staff Director
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant
Glenda Temple, Clerk

Witnesses:

1. Mr. W. B. Dunavant, Jr., President, Dunavant Enterprises, in behalf of the American Cotton Shippers Association, Washington, D.C.

   Acc. by: Mr. Neal P. Gillen, General Counsel

2. Mr. R. E. Batte, First Vice President, Board of Trade of Kansas City, Kansas City, Missouri

   Acc. by: Mr. Walter N. Vernon, Jr., Executive Vice President

3. Mr. John DeKock, Chairman, Marketing Committee, National Cattlemen's Association, 1001 Lincoln Street, Denver, Colorado 80201

4. Mr. George Rosenthal, President, Fink Baking Corporation of Long Island, New York, in behalf of the Independent Bakers Association, Washington, D.C.

   Acc. by: Mr. Bob Pyle, President, Independent Bakers Association

5. Mr. Glenn Willett Clark, Glenn Willett Clark Associates, McLean, Virginia

6. Mr. Robert L. Isaacson, Director, National Association of Futures Trading Advisors, Chicago, Illinois

Statements Filed:

None

Thursday, February 25, 1982
Conservation, Credit, and Rural Development
Subcommittee
Public Hearing -- p.m.
Futures Trading Act of 1982
H.R. 5447

Chairman Jones (Tenn.) called the meeting to order and recognized the witnesses listed on page 2 of these minutes for their prepared testimony on the Futures Trading Act of 1982. Following presentation of their statements, the witnesses were questioned by the Members of the Subcommittee.

At the conclusion of the hearing, Chairman Jones advised that further hearings would not be held. He stated that the Subcommittee would be given time to digest the testimony and then meet to discuss what should be included in a bill for markup. He advised that the record would be left open to permit any additional statements to be included.

At 3:45 p.m. the meeting was adjourned, subject to the call of the chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, February 25, 1982

(Sub) Committee: Ad Hoc on the Budget

Meeting: Open Business

Subject: To consider FY 1983 USDA and related agency budget proposals

Bill Nos. None

The Ad Hoc Budget (Sub) Committee

Met in Open Session at 2:20 p.m. o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Wampler
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

A. Mario Castillo, Staff Director
Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Charles Benbrook, Subc. Staff Director
Peggy Pecore, Clerk

Witnesses:

Officials present to discuss their agency budget request:

Federal Grain Inspection Service, Department of Agriculture:

Dr. Kenneth A. Gilles, Administrator, FGIS
Mr. David R. Galliart, Deputy Administrator, FGIS
Mr. Mark W. Sheldon, Chief, Financial Management Division, Agricultural Marketing Service

Packers and Stockyards Administration:

Mr. B. H. (Bill) Jones, Administrator, PSA

Commodity Futures Trading Commission

Mrs. Susan Wagner, Executive Director, CFTC

Statements Filed:

Dr. Kenneth A. Gilles
Mr.B. H. (Bill) Jones
Dr. John A. Todhunter, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency

Thursday, February 25, 1982 - P.M.
Ad Hoc Subcommittee on the Budget
Open Business Meeting
To consider FY 1983 USDA and related
agency budget proposals

Chairman de la Garza called the meeting to order and noted that only two Members of the Subcommittee and one Member from the Full Committee were present. The Chairman informed the agency officials who were present that he had not received any questions from the absent Members to direct to the agencies and that he and Mr. Wampler had to appear before the Committee on House Administration relative to the Agriculture Committee budget at 2:30 this date.

The Chairman invited the officials, whose names are listed on page two, to come to the witness table if they had prepared statements or a brief oral overview to present to the subcommittee. Dr. Gilles and Mr. Jones submitted statements for the record, and all officials responded to brief questions from Members as appearing in the record. Dr. John A. Todhunter, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, had not arrived at the meeting, and a statement he had submitted in advance was placed in the record.

Mr. Volkmer chaired the meeting at 2:25 p.m. until 2:35 p.m., when the Subcommittee adjourned to meet again subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date February 26, 1982

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Field Hearing

Subject: To study the operation of the live cattle futures market.

Bill Nos. --

The Livestock, Dairy, and Poultry (Sub) Committee

met in open Session at 9:00 a.m. o'clock, in Room 169, Scheman Building, Ames, Iowa

The following Members were present:

Mr. Harkin
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Bedell
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

George Palmer, Subcommittee Staff Director

Witnesses:

1. The Honorable Neal Smith of Iowa, Member of Congress
2. Mr. Bill Schermer, Marketing Committee Chairman, Iowa Cattlemen's Assn.
3. Mr. Clayton Yeutter, President, Chicago Mercantile Exchange, Chicago, Ill.
4. The Honorable Susan Phillips, Commissioner
   The Honorable Kalo Hineman, Commissioner
   Mr. John Mielke, Director of the Surveillance Unit, Commodity Futures Trading Commission, Washington, D. C.
5. Professor Marvin L. Hayenga, Department of Economics, Iowa State University, Ames, Iowa
6. Mr. Doug Wildin, Cattleman, Hutchinson, Kansas
7. Mr. Linly Stum, Cattleman, Towner, Colorado
8. Mr. Donald Smith, Cattleman, Washta, Iowa
9. Mr. Donald Budlong, Cattleman, Titonka, Iowa
10. Mr. Vic Tomka, Cattleman, Carroll, Iowa
11. Mr. Carl Jensen, Cattleman, Everly, Iowa
12. Ms. Nancy Espy, Boyes, Montana, National Beef Chairman of W.I.F.E. (Women Involved in Farm Economics)
13. Mr. Bill Utesch, Cattleman, Washta, Iowa

Statements Filed:

Friday, February 26, 1982
Livestock, Dairy, and Poultry Subcommittee
Field Hearing, Ames, Iowa
To study the operation of the live
cattle futures market.

Mr. Harkin, Chairman of the Subcommittee, called the meeting to order and reviewed recent developments in the cattle industry which lead up to this hearing.

Both Mr. Bedell and Mr. Evans made opening statements. Testimony was then heard from the first four witnesses who were then questioned as a panel. The Subcommittee then recessed at 12:30.

At 1:00 p.m. the hearing reconvened and testimony was heard from the remainder of the witnesses in the order listed.

The hearing adjourned at 3:45 p.m.

George Palmer
George Palmer

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 2, 1982

~~Sub~~**Committee:** Full

Meeting: Business

Subject: To consider recommendations on the FY 1983 Department of Agriculture budget

Bill Nos. None

The Full ~~Sub~~**Committee**

met in Open **Session at** 9:45 am **o'clock, in Room** 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Harkin
Mr. Bedell
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher

Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Steve Adams, Staff Assistant
Bernie Brenner, Press Secretary
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Jim Johnson, Staff Assistant
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Jerry Welcome, Staff Assistant
Tom Adams, Staff Assistant
John Bailey, Minority Consultant
Richard Fritz, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

USDA representatives present to respond to questions:

Mr. Robert Sherman, Deputy Director, Legislative, Regulatory, and Automated Systems, Office of Budget and Program Analysis

Mr. Mike Masterson, Director, Congressional Affairs, Office of Governmental and Public Affairs

Statements Filed:

NONE

Tuesday, March 2, 1982
Full Committee
Business Meeting
To consider recommendations on the
 FY 1983 Department of Agriculture
 budget

Action taken:

Commodity Credit Corporation:

--Without objection, recommended the Congressional Budget Office estimates for outlays for farm price supports and related programs ($7.4 billion and to report langauge discussing a range of CCC outlays from $1.8 billion to the CBO figure

--Without objection, agreed to incorporate in the report the Jones, Tenn. language that the Conservation Loan Program would be left to the discretion of the Secretary of Agriculture, at a level of $50 million

--Without objection, agreed to Jones, Tenn. recommendation that the Farm Storage Facility Loan Program be funded at $90 million, and that there be no change in the Administration's request for zero funding for the Emergency Feed Program

Agricultural Stabilization and Conservation Service:

--Without objection, agreed to Jones, Tenn. recommendation for an increase from $56 million to $190 million for the Agricultural Conservation Program; an increase from 0 to $12.500 million for the Forestry Incentives Program; an increase from 0 to $8.800 million for the Water Bank Program; an increase from 0 to $8.800 million for the Emergency Conservation Program, and to recommend no change in the Administration's request for zero funding for the Rural Clean Water Program

--Without objection agreed to the Administration's request of $62.046 millic for ASCS salaries and expenses

Commodity Futures Trading Commission:

--Without objection agreed to Jones, Tenn. recommendation to accept the Administration's request for $22,000 million

Farmers Home Administration:

--Without objection, agreed to the Administration's request for farmer ownership loans ($775 million); operating loans ($1 billion, 510 million); emergency disaster loans ($1 billion, 540 million) with report language reflecting this figure as the Committee's best estimate

--Without objection, agreed to Harkin recommendation that the Economic Emergency Loan Program be funded at a range from $600 million to $1.4 billion

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Action taken (cont'd):

Farmers Home Administration (cont'd):

--Without objection, passed over the items of irrigation and drainage loans to associations, grazing loans, watershed protection and flood prevention loans and resource conservation loans programs (for which the Administration had requested no funds) and Indian tribe acquisition loans (Administration's request - $12 million) until the Committee learned whether a Member from a Western State had recommended changes

--Without objection, agreed to Jones, Tenn. recommendation to accept the Administration's request for $31 million for soil and water loans

--Without objection, agreed to Administration's request for no funding for recreation loans

--Without objection, Jeffords recommendation to increase funding for water and waste disposal loans from $300 million to $375 million agreed to

--Without objection Jeffords recommendation to maintain 1982 funding level for community facility loans at $130 million agreed to

--by a show of hands vote of 3 yeas-5 nays, Harkin amendment to fund business and industrial loans at $1 billion with a credit elsewhere test not agreed to

--Without objection Jeffords recommendation to place a ceiling of $500 million on business and industrial loans agreed to

Chairman de la Garza called the meeting to order and made remarks about the consideration of the budget by the Ad Hoc Subcommittee on the Budget. He announced that the full Committee was ready to proceed with recommendations to the Committee on the Budget, which had to be accomplished by March 15, and that an agenda had been distributed (attached). He then recognized Counsel Bor and Mr. McCoy for comments.

See minutes of February 23 (a.m.) for the Ad Hoc Subcommittee summary of the FY 1983 budget request for the Department of Agriculture.

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The Chairman recognized Mr. Marlenee's daughter who was sitting with the Members, and she was welcomed to the meeting.

The Chairman asked for discussion on the Commodity Credit Corporation. A summary of the CCC 1983 budget request and a comparison of 1981 Farm Bill conference costout and the budget request are attached. Mr. Roberts of Kansas suggested a range from the Administration's request ($1.8 billion) to the Congressional Budget Office estimate ($7.4 billion) and a general discussion followed. Mr. Daschle moved to amend the Roberts suggestion to accept the CBO figure and place language in the committee report relative to the suggested range. There being no objection, Mr. Daschle's recommendation was agreed to.

Mr. Jones of Tennessee was recognized to submit recommendations of the Conservation, Credit, and Rural Development Subcommittee on items under its jurisdiction. Mr. Jones indicated he and Mr. Jeffords had come to agreement on most items and invited Members to inform them if they had any disagreements.

The Agricultural Stabilization and Conservation Service budget was discussed. Mr. Jones recommended an increase to $190 million for the Agricultural Conservation Program; return to the level of 1982 funding for the Forestry Incentives Program ($12.500 million), the Water Bank Program ($8.800 million), and the Emergency Conservation Program ($8.800 million). He recommended no reinstatement of funds for the Rural Clean Water Program. After a general discussion, there being no objections, the Jones recommendations were agreed to.

Mr. McCoy brought to the attention of the Members that while ASCS salaries and expenses and the Dairy Indemnity Program were not under the jurisdiction of this subcommittee, these items should be considered at this time. There were no objections to the Administration's request for $62.046 million for salaries and expenses.

The Conservation Loan Program was next considered. Mr. Jones informed the members that this program is incorported within the general CCC expenditures, and he recommended that the committee report contain language that the program be discretionary, at a level of $50 million. There were no objections.

Mr. Jones submitted subcommittee recommendations for the Farm Storage Facility Loan Program. Mr. Bedell moved that the basic receipts relating to net repayment of loans be reduced from $250 to $200 million, which would allow for a total of $94 million available for such loans in 1983. Mr. Jones had recommended an additional $50 million which, added to the $40 million budget request, would total $90 million. After much discussion, Mr. Bedell withdrew his amendment and the Committee agreed with the Jones recommendation, without objection.

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Mr. Jones next presented the subcommittee's recommendations on the budget for the Commodity Futures Trading Commission, which were to make no change in the Administration's request for $22 million. There were no objections.

Mr. Jones presented the next item, the Farmers Home Administration. He recommended the Committee accept the Administration's request for farmer ownership loans ($775 million), operating loans ($1 billion, 510 million), emergency disaster loans (1 billion, 540 million). There were no objections to these recommendations and to the Jones recommendation that the committee report reflect that the funding request for emergency disaster loans was the best estimate.

The Economic Emergency Loan Program was discussed. Department of Agriculture staff present indicated that guidelines for the $600 million authorized in the 1981 Farm Bill, for FY 1982, for use at the discretion of the Secretary, would be issued shortly. Mr. Harkin proposed that the Committee recommend a range of $600 to $1.4 billion for this program, and there were no objections.

The next items: irrigation and drainage loans; grazing loans to associations; watershed protection and flood prevention loans; resource conservation loans (the Administration had not requested funding for these) and the Indian tribe acquisition loans (Administration request - $12 million) were passed over to give a far-Western Member of the Committee a chance to offer recommendations.

Mr. Jones recommended that the Committee accept the Administration's request of $31 million for soil and water loans to individuals, and there was no objection.

Without objection, the Committee agreed to Mr. Jones' recommendation to accept the Administration's request of zero funding for recreation loans.

Mr. Jeffords discussed water and waste disposal loans and recommended the Committee maintain 1982 level funding for this program, as well as for the community facility loans. He recommended the Committee request $500 billion for business and industrial loans. A general discussion followed. Mr. Harkin moved to amend the Jeffords suggestion for these loans to $1 billion. The Chairman asked for a division vote on the Harkin amendment and it was not agreed to by a vote of 3 yeas-5 nays. Thus, Mr. Jeffords proposals were adopted without objection.

Mr. Stenholm and Mr. Jones chaired the meeting for a few minutes each before the Committee adjourned at 12:05 p.m., to reconvene at 2:00 p.m. this date to mark up the remaining items on the agenda.

Peggy Pecore
Peggy Pecore

AGENDA FOR FULL COMMITTEE CONSIDERATION OF THE FY 1983 BUDGET

March 2 - 9:30 a.m.

Chairman de la Garza - Opening Remarks

Members and staff - Opening Remarks

AGENCY CONSIDERATION

1. Commodity Credit Corporation

Recognition of Chairman Jones

2. Agricultural Stabilization and Conservation Service
3. Commodity Futures Trading Commission
4. Farmers Home Administration
5. Federal Crop Insurance Corporation
6. Office of Rural Development Policy
7. Rural Electrification Administration
8. Soil Conservation Service

Recognition of Chairman Brown

9. Agricultural Research Service
10. Cooperative State Research Service
11. Extension Service
12. Environmental Protection Agency
13. Foreign Assistance Program, P.L.-480
14. Foreign Agricultural Service
15. National Agricultural Library
16. Office of International Cooperation and Development

Recognition of Chairman Richmond

17. Food and Nutrition Service

Recognition of Chairman Weaver

18. Forest Service

Consideration of Miscellaneous Agencies

19. Agricultural Cooperative Service
20. Agricultural Marketing Service
21. Animal and Plant Health Inspection Service
22. Departmental Staff Offices
23. Economic Research Service
24. Federal Grain Inspection Service
25. Food Safety and Inspection Service
26. Human Nutrition Information Service
27. Office of Transportation
28. Packers and Stockyards Administration
29. Statistical Reporting Service
30. World Agricultural Outlook Board

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Comparison of Estimated CCC Net Outlays for S.884 as
Passed by the Senate, and as Reported by the
Conference and to Basic Legislation
(Million Dollars)

FY	82	83	84	85	86	82-86 Tot.
Wheat						
S. 884	1505	109	490	446	379	2929
Conference	1532	164	537	449	359	3041
Feed Grain						
S. 884	1077	384	214	164	-121	1718
Conference	1077	418	272	158	-51	1874
Soybeans						
S. 884	-60	-25	0	-10	10	-85
Conference	-60	-25	0	-10	10	-85
Upland Cotton						
S. 884	158	-28	-12	11	8	137
Conference	158	-28	-12	11	8	137
Rice						
S. 884	90	88	9	9	9	205
Conference	90	82	10	9	10	201
Peanuts						
. 884	41	5	-14	5	3	40
Conference	42	-4	1	5	5	49
Sugar						
S. 884	-9	—	—	—	—	-9
Conference	-9	—	—	—	—	-9
Wool						
S. 884	38	26	42	61	74	241
Conference	38	31	48	69	82	268
Dairy						
S. 884	1058	701	713	552	537	3561
Conference	1058	852	713	552	537	3712
Farm Bill Commod.						
S. 884	3898	1260	1442	1238	899	8737
Conference	3926	1490	1569	1243	960	9188
All Other CCC Outlays						
S. 884	352	262	546	413	308	1881
Conference	352	259	534	409	305	1859
otal CCC Outlays						
S. 884	4250	1522	1988	1651	1207	10618
Conference	4278	1749	2103	1652	1265	11047

COMPARISON OF FARM BILL CONFERENCE COSTOUT AND THE CCC FY 1983 PRESIDENT'S BUDGET
FY 1982 - FY 1983

(dollars in millions)

Item	FISCAL YEAR 1982		FISCAL YEAR 1983	
	Farm Bill August Base	President's Budget	Farm Bill August Base	President's Budget
Feed Grains..	$1,077	$2,466	$418	$418
Wheat..	1,532	951	164	164
Rice..	90	35	82	82
Upland Cotton..	158	729	-28	-28
Dairy..	1,058	1,544	852	852
Soybeans..	-60	-17	-25	-25
Peanuts..	42	79	-4	-4
Sugar..	-9	-6	--	--
All Other..	352	518	259	360
Subtotal, Support and Related.................	4,240	6,299	1,718	1,819
Wool..	38	44	31	31
TOTAL CCC..	4,278	6,343	1,749	1,850

ASCS/BUD/CPB/M/2/5/2/17/82

Prepared by Staff of the House Agriculture Committee - 2/17/82

COMMODITY CREDIT CORPORATION
1983 BUDGET REQUEST
(in thousands of dollars)

		1981 Actual	1982 Estimated	1982 CBO Est.	1983 Request	1983 CBO Est.	Subc. Rec.	Comments
Price Support and Related Activities								
Reimbursement to CCC for realized losses	BA	3,299,887	7,043,229	NA	3,783,244	NA		The FY 1982 Administration estimate for reimbursement includes a supplemental appropriation of $5 billion.
	O	--	--	--	--	--		
Increase in borrowing authority	BA	--	--	NA	--	NA		The Administration will continue to press for an increase in CCC borrowing authority of $5 billion increasing the CCC borrowing ceiling from $20 billion to $25 billion.
	O	--	5,000,000	NA	--	NA		
Authority to borrow (permanent)	BA	872,853	--	NA	--	NA		
	O	--	--	--	--	--		
Wheat	BA	--	--	--	*	--		The normal financial detail presented in the FY 1983 budget request for CCC commodity programs was omitted by the Office of Management and Budget because important decisions regarding implementation of the new Farm program legislation had not been made at the time of the budget preparation. Total estimated outlays in the budget for FY 1983 are based on estimates presented to the Committee on Agriculture during Conference consideration of the Farm Bill. These estimates reflect August, 1981, crop production assumptions.
	O	1,542,602	950,638	1,817,000	*	1,231,000		
Feedgrains	BA	--	--	--	*	--		
	O	- 532,641	2,466,313	5,223,000	*	2,070,000		
Cotton	BA	--	--	--	*	--		
	O	335,686	728,715	950,000	*	629,000		
Rice	BA	--	--	--	*	--		
	O	24,016	35,394	102,000	*	46,000		
Soybeans	BA	--	---	--	*	--		CBO estimates for CCC outlays in FY 1982 and FY 1983 are based on current crop production assumptions.
	O	86,748	- 17,328	10,000	*	10,000		
Peanuts	BA	--	--	--	*	--		
	O	27,798	78,504	75,000	*	50,000		
Tobacco	BA	--	--	--	*	--		
	O	- 51,163	- 29,005	- 82,000	*	25,000		

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Prepared l .taff of the House Agriculture Committee - 2/17/82

COMMODITY CREDIT CORPORATION (Cont.)
1983 BUDGET REQUEST
(in thousands of dollars)

		1981 Actual	1982 Estimated	1982 CBO Est.	1983 Request	1983 CBO Est.	Subc. Rec.
Sugar	BA	--	--	--	*	--	
	O	- 120,567	- 6,428	- 10,000	*	--	
Dairy	BA	--	--	--	*	--	
	O	1,893,833	1,544,485	1,907,000	*	1,972,000	
Export Credit	BA	--	--	--	*	--	
	O	- 983,039	- 536,273	- 436,000	*	- 152,000	
Storage facilities	BA	--	--	--	*	--	
	O	- 67,085	- 187,273	- 231,000	*	- 254,000	
Emergency feed	BA	--	--	--	*	--	
	O	328,504	50,000	60,000	*	60,000	
Net Interest	BA	--	--	--	*	--	
	O	220,263	856,267	1,370,000	*	1,300,000	
FCIC Crop Indemnity	BA	--	--	--	--	--	
	O	250,000	--	--	--	--	
SUBTOTAL - COMMODITY CREDIT CORPORATION	BA	4,172,740	12,043,229	NA	3,783,244	NA	
	O	3,994,229	6,298,607	11,351,000	1,819,000	7,382,000	
Wool Act	BA	34,520	42,078	NA	44,632	NA	
	O	42,078	44,632	NA	31,000	NA	

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 2, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: To consider recommendations on the FY 1983 Department of Agriculture Budget

Bill Nos. None

The Full ~~(Sub)~~ Committee

met in Open Session at 2:20 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Richmond
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. Panetta
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Volkmer

Mr. Dorgan
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Roberts, Kans.
Mr. Skeen
Mr. Gunderson
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Steve Adams, Staff Assistant
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Greg Skillman, Subc. Staff Director
Richard Fritz, Minority Consultant
Anita Brown, Staff Assistant
Tom Adams, Staff Assistant
Jerry Welcome, Staff Assistant
Frank Winston, Staff Assistant
Lynn Gallagher, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

USDA representatives present to respond to questions:

Mr. Robert Sherman, Deputy Director, Legislative, Regulatory, and Automated Systems, Office of Budget and Program Analysis

Mr. Wayne Fletcher, President, Federal Crop Insurance Corporatio

Miss Judith Palensky, Budget Officer, Soil Conservation Service

Statements Filed:

U.S. GOVERNMENT PRINTING OFFICE [illegible]

Tuesday, March 2, 1982 - P.M.
Full Committee
Open Business Meeting
To consider recommendations on the FY 1983 Department of Agriculture Budget

Action Taken:

Farmers Home Administration:

--Without objection agreed to Jones, Tenn. recommendation on Community and Regional Development Grants to fund water and waste disposal development grants at the level of the Administration's request - $120 million, and to request no change in the Administration's request for no funding for rural development grants and rural community fire protection grants

Federal Crop Insurance Program:

--Without objection agreed to Jones, Tenn. recommendation to accept the Administration's request of $293.703 million

Office of Rural Development Policy:

--Without objection agreed to Jeffords recommendation to reduce budget $500,000 to a level of $2 million

Rural Electrification Administration:

--Without objection agreed to Jones, Tenn. recommendation to fund insured electric loans at a range between $850 million and $1.1 billion

--Without objection agreed to Jones,Tenn.recommendation to fund insured telephone loans at a range between $250 million and $325 million

--Without objection agreed to Jones, Tenn. recommendation to fund guaranteed electric loans at a range of $4.6 billion to $5.7 billion

--Without objection agreed to Jones, Tenn. recommendation to accept the Administration's request of $145 million for guaranteed telephone loans

--Without objection agreed to Jones, Tenn. recommendation to reinstate $30 million for capitalization of the Rural Telephone Bank

Soil Conservation Service:

--Without objection, agreed to Administration funding levels for watershed planning ($9.152 million); river basin surveys and investigations ($16.743 million); watershed protection and flood prevention ($117.721 million); conservation operations ($336.580 million)

--Without objection agreed to Jones, Tenn. recommendation to fund resource conservation and development at the 1982 level ($26.000 million)

Tuesday, March 2, 1982 - P.M.
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To consider recommendations on the FY 1983 Department of Agriculture Budget

Action Taken (cont'd):

Soil Conservation Service (cont'd):

--Without objection agreed to Jones, Tenn. recommendation to funding at the 1982 level ($21.500 million) for the Great Plains Conservation Program

--Without objection agreed to Jones, Tenn. recommendation to agreed to Administration's request for $10 million for soil and water conservation grants

--Without objection agreed to Jones, Tenn. recommendation to add $10 million for the Special Areas Conservation Program

--After these actions on the SCS budget, it was agreed that Mr. Volkmer would consult with counsel relative to report language on the subject of watershed planning

Agricultural Research Service:

--Without objection agreed to Wampler en bloc amendment, as amended, to reorder priorities, by transferring funds from ARS to CSRS and to the Extension Service. A detailed summary of the amendment is attached to these minutes

Environmental Protection Agency:

--Without objection agreed to Brown recommendation to accept the Administration's 1983 request of $2.108 million for research and development and to accept 1982 levels for administration ($31.238 million) and for enforcement ($20 million)

Foreign Agricultural Service:

--Without objection agreed to Brown recommendation to accept the Administration's request for P.L. 480 ($1 billion, 28 million), $79.207 million for the remaining functions of the Foreign Agricultural Service, and $16.775 million for the Office of International Cooperation and Development

Agricultural Conservation Service:

--By a show of hands vote of 4 yeas-4 nays, Gunderson motion to add funds to Agricultural Conservation Service not agreed to

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Action Taken (cont'd):

Food Stamp Program:

--Without objection, the recommendations of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition as presented by Subcommittee Chairman Richmond, agreed to. A detailed summary of the recommendations is attached to these minutes

Forest Service:

--By voice vote agreed to Weaver recommendations that there should be no increase in the total amount requested by the Administration; that increased road construction funds should be redistributed to the timber stand improvement ($12.2 million), wood residue utilization ($3.5 million), state and private forestry ($12 million), and $11 million to research - as amended by Mr. Brown's suggestion to shift $2 million from the increase in timber sales funding request to continue with research. A detailed summary is attached.

--Without objection agreed to Weaver's suggestion to forward to the Budget Committee without recommendation the items listed under proposed initiatives on page 30 in the Ad Hoc Subcommittee on the Budget summary, with a footnote under item 3 - Bald Mountain Road Project - indicating the Committee had voted to oppose the funding in 1981, and to strike item 7 (user fees) since this proposal had just been withdrawn by the Department of the Interior

Miscellaneous:

Export Revolving Fund:

--Without objection agreed to Glickman recommendation of a range of $500 million to $1 billion

Agricultural Marketing Service:

--Without objection agreed to Administration's request of $31.370 million

Animal and Plant Health Inspection Service:

--Without objection, agreed to Chairman de la Garza's recommendation to take the 1982 figures except in cases where the Administration had requested an increase for 1983

Departmental Staff Offices, Economic Research Service, Federal Grain Inspection Service, Human Nutrition Information Service, Office of Transportation, Packers and Stockyards Administrtion, Statistical Reporting Service, and World Agricultural Outlook Board:

--Without objection agreed to the Administration's funding requests for these items

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Chairman de la Garza called the meeting to order and apologized for the delay in starting the meeting. Mr. Jones, Tenn., introduced a group of students from his District, who were in the audience, and they were welcomed by the Committee.

Mr. Jones recommended the Committee accept the Administration's figures for water and waste disposal grants ($120 million) and made no recommendations for rural development grants and rural community fire protection grants, both of which the Administration had not funded. There were no objections.

Mr. Jones discussed four bills currently pending before the Subcommittee on Conservation, Credit, and Rural Development, and indicated the subcommittee was ready to proceed with reauthorization of the Farmers Home Administration lending program within the very near future.

The budget for the Federal Crop Insurance Corporation was next discussed. The request of the Administration ($293.703 million) was agreed to without objection.

Mr. Jeffords recommended the Committee hold the budgetary amount to $2 million (same as 1982) for the Office of Rural Development Policy, and there was no objection.

Mr. Jones discussed the Rural Electriifcation Administration budget request and asked Mr. Cashdollar to explain the following subcommittee request: a range of $850 million to $1.1 billion for insured loans electric; a range of $250 million to $325 million for insured loans telephone; a range of $4.6 million to $5.7 million for guaranteed loans electric; and to accept the Administration's proposal of $145 for guaranteed loans telephone. After a brief discussion, the subcommittee's recommendations were agreed to without objection.

Mr. Jones recommended an amount of $30 million for capitalization of the Rural Telephone Bank, and his recommendation was agreed to without objection.

Mr. Jones called up the next item - Soil Conservation Service - and Mr. Cashdollar explained that the subcommittee recommended accepting the Administration's figures as follows: Watershed planning $9.152 million; river basin surveys ($16.743 million); watershed protection and flood prevention ($117.721 million); conservation operations ($336.580 million); resource conservation and development ($26 million). Mr. Cashdollar explained the subcommittee recommended funding the Great Plains Conservation Program at the 1982 level ($21.5 million) and adding $10 million for the Special Areas Conservation Program.

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Mr. Volkmer questioned the amount of funds for watershed planning when watershed construction was not taking place. He offered an amendment to reduce this funding request by $3 million. After discussion, Mr. Volkmer withdrew his amendment, without objection, and it was agreed he would consult with counsel relative to committee Report language expressing his concern.

Without objection, the subcommittee's recommendations for the Soil Conservation Service were agreed to.

Chairman de la Garza announced there was a series of votes in the House which would necessitate the Members being on the Floor for at least 30 minutes, whereupon the Committee recessed at 2:55 p.m.

At 3:35 p.m., the Committee reconvened and the Chairman recognized Mr. Brown and Mr. Wampler for their recommendations on items under the jurisdiction of the Subcommittee on Department Operations, Research, and Foreign Agriculture.

Mr. Brown informed the Members he was cognizant of an en bloc amendment Mr. Wampler planned to offer relative to research, which he supported. Before recognizing Mr. Wampler, Mr. Brown suggested the Committee accept the Administration's request of $2.108 million for research and development and to accept 1982 levels for administration ($31.238 million) in the budget for the Environmental Protection Agency.

Mr. Wampler was recognized to explain his en bloc amendment (attached) which reordered priorities in agricultural research. Without objection, he amended his request for Special Research Grants, (strike $838,000 and add $624,000). Mr. Wampler moved to adopt his amendment, and without objection it was agreed to, as amended.

Mr. Brown again discussed his proposal for the EPA budget, and after discussion it was agreed to, without objection.

Mr. Brown informed he Members he had no further proposals; that the subcommittee would accept the Administration's budget cuts in the other areas under its jurisdiction - Foreign Agricultural Service and Office of International Cooperation and Development.

Mr. Gunderson asked to be recognized to reserve the right to offer an amendment when the Committee considered the item of the Agricultural Conservation Service. While the Committee was awaiting the arrival of the subcommittee chairman to present the next item on the agenda, Mr. Gunderson was granted permission to offer his amendment (attached) which would increase the budget authority for ACS by decreasing the request for the Agricultural Research Service and the Cooperative State Research Service. After several Members objected to the proposed decreases, Mr. Gunderson asked, without objection, that everything after the first sentence of his amendment be striken. After more discussion, the Chairman asked for a division vote, and by a vote of 4 yeas-4 nays, the amendment, as amended, was not agreed to.

Mr. Richmond was recognized to present the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition recommendations for the Food and Nutrition Service. The recommendations (attached) suggested a range between the Administration's proposal and the Congressional Budget Office projections for the Food Stamp Program and the Commodity Supplemental Food Program. After a brief discussion, during which Mr. Wampler informed the Committee that Mr. Coleman, who could not be present, concurred in the recommendations, they were agreed to without objection.

Mr. Weaver, chairman of the Subcommittee on Forests, Family Farms, and Energy was next recognized. He presented the recommendations of the subcommittee (attached) and urged that they be adopted. These recommendations would redistribute increased road construction funds to timber stand improvement ($12.2 million), wood residue utilization ($3.5 million), state and private forestry $12 million), and $11 million for research. Mr. Brown suggested that $2 million be shifted from the increase in timber sales funding request to continue with research.

Mr. Weaver reviewed the items listed under the Administrations's proposed initiatives. Without objection, the Committee agreed with his recommendation to forward these initiatives to the Committee on the Budget, without recomendation, with a footnote under item 3 - Bald Mountain Road Project - indicating the Committee had voted against this matter in 1981, and to strike item 7 - recreation user fees - since this proposal had been officially withdrawn by the Department of the Interior.

Discussion ensued on the recommendations of the subcommittee. The Chairman asked for a voice vote on the proposals as amended by Mr. Brown, and the ayes prevailed.

The miscellaneous items on the agenda were next considered. Mr. Glickman suggested that funding be included for an Export Credit Revolving Fund which had been authorized in the 1981 Farm Bill. After several Members suggested figures, Mr. Glickman recommended a range of $500 million to $1 billion, which was agreed to without objection.

Mr. McCoy presented the recommendations for the Agricultural Marketing Service. The Administration had requested a reduction of $8 million from 1982. After a brief discussion, the Committee recommended the Administration's request of $31.370 million, without objection.

The Animal and Plant Health Inspection Service budget was next considered. The Chairman recommended that the Committee take the 1982 figures except in cases where the Administration had asked for an increase in 1983, and there was no objection.

Mr. McCoy presented the Administration's request for Department Staff Offices and explained the reasons for additional funding. After a brief discussion, the request was agreed to without objection.

Mr. McCoy presented the Administration's budget request for the remaining items under "Miscellaneous". After each was explained, the Committee, without objection, made no changes in the requests for the Economic Research Service, Federal Grain Inspection Service, Food Safety and Inspection Service, Human Nutrition Information Service, Office of Transportation, Packers and Stockyards Administration, Statistical Reporting Service and the World Agricultural Outlook Board.

The Chairman informed the Members there was concern in the agricultural community about the Administration's request for decreased funding the the National Weather Service, which would eliminate all agricultural weather service stations. He explained that while this matter was under the jurisdiction of the Committee on Science and Technology, he would recommend the committee report contain a footnote recommending restoration of the agricultural services. Mr. Brown of the Science and Tehnology Committee assured the Chairman he was following this situation and he would report back to the Committee.

The Chairman announced the entire budget was tentatively agreed to, without objection, and the Committee would vote on final approval at the next meeting of the Committee.

Mr. Wampler commended the Committee for the manner in which the budget had been considered. He requested, and an agreement was reached, without objection, that any Member would have the perogative of submitting separate, additional, or minority views within an appropriate time frame for the committee report.

Counsel Bor reviewed pending legislation due to be considered by the full Committee at its next meeting.

The Committee adjourned at 5:12 p.m., to reconvene at 9:30 a.m. on Wednesday, March 6, 1982, to take a final vote on the budget recommendations and to consider pending legislation.

Peggy Pecore
Peggy Pecore

Motion in Block by Mr. Wampler

- At page 11of the Committee Document pertaining to Cooperative State Research Service (CSRS) delete $2,418,000 from the increase authorized in the FY 1983 budget for Competitive Research Grants (plant sciences) under Sec. 1414, P.L. 95-113.

- At page 11 of the Committee Document pertaining to CSRS add to Special Research Grants $838,000: for Soybean Cyst Nematode research in Missouri ($240,000); Aquaculture at Stoneville, Mississippi ($240,000); and Control of perennial weeds at Stoneville, Missippi ($144,000).

- At page 11 of the Committee Document pertaining to CSRS funding restore $1,244,000 in payments to States for Cooperative Forestry Research.

- At page 11 of the Committee Document pertaining to the Cooperative State Research Service (CSRS) add $3,500,000 under the Hatch Act for research at State Agricultural Research Stations.

- At page 11 of the Committee Document pertaining to CSRS funding add $525,000 for research at 1890 institutions and Tuskegee.

- At page 11 of the Committee Document pertaining to CSRS Continuing Animal Health Research, restore $4,000,000 for Animal Health and Disease Research under Sec. 1433, P.L. 95-113.

- At page 11 of the Committee Document pertaining to CSRS add new item $214,000 for Dairy Goat Research, Sec. 1432, P.L. 97-98.

- At page 15 of the Committee Document pertaining to the Extension Service increase payments to States, under the Smith-Lever Act, Secs. b and c, by $3,500,000.

- At page 15 of the Committee Document pertaining to the Extension Service restore $2,000,000 to State Cooperative Forestry Extension institutions under the Renewable Resources Extension Act.

- At page 16 of the Committee Document pertaining to the Extension Service increase payments to 1890 Colleges and Tuskegee, under Sec. 1444 of P.L. 95-113 and Sec. 1431 of P.L. 97-98, by $192,500.

(The foregoing increases and decreases make a total addition of $13,361,500 to the CSRS and the Extension Service budgets for FY 1983.)

- At page 3 of the Committee Document pertaining to the Agricultural Research Service (ARS), for Federal Research, delete and transfer $4,000,000 in animal health and protection research from Research on Animal Production to the Cooperative State Research Service under Sec. 1433, P.L. 95-113.

- At page 3 of the Committee Document pertaining to the Agricultural Research Service (ARS) delete and transfer $3,669,000 to the Cooperative

State Research Service and $5,692,500 to the Extension Service from the total remaining in the Agricultural Research budget for FY 1983.

- In making the foregoing reductions in the Agricultural Research Service budget for FY 1983 the Committee recommends that the House Committee on Appropriations and the House Committee on the Budget make most of these recommended reductions from low priority research programs throughout the ARS budget, which amounts to over $470 million in FY 1983, rather than reduced funds for new research programs at ARS.

(These reductions and transfer of funds, amounting totally to $13,361,500 recommended above, still leave the Agricultural Research Service with an increase of over $30,000,000 in added research capability in the FY 1983 budget.)

GUNDERSON AMENDMENT TO AGRICULTURAL COOPERATIVE SERVICE (ACS)

THAT, the FY '83 Budget Authority for the Agricultural Cooperative Service (ACS) is increased by the sum of $974,000 from the requested level of $3,683,000 to a new level of $4,657,000. Said increase shall be funded as follows: 1) by decreasing FY'83 Budget Authority of the Agricultural Research Service (ARS) by the sum of $649,000 from the requested level of $470,548,000 to a new level of $469,899,000; and 2) by decreasing FY'83 Budget Authority of the Cooperative State Research Service by the sum of $325,000 from the requested level of $232,103,000 to a new level of $231,778,000.

VIEWS AND ESTIMATES ON PROGRAMS UNDER COMMITTEE'S JURISDICTION

(In Millions of Dollars)

COMMITTEE: COMMITTEE ON AGRICULTURE

C. Programs Authorized by the Committee but Funded in Annual Appropriations

Committee's Major Programmatic Assumptions

a) Presidential Initiatives
  1) Food Stamps

		FY 1983	FY 1984	FY 1985
CBO Baseline....	BA	11,743	12,147	13,125
(excluding Puerto Rico)	O	11,718	12,137	13,101
	BA	0 to - 2,212	0 to - 2,410	0 to - 3,117
	O	0 to - 2,155	0 to - 2,405	0 to - 3,099

The President has proposed several major changes in the Food Stamp Program as part of his FY 1983 budget, all of which, taken together, are calculated to save $2.8 billion, of which $600 million will be offset by the impact upon the program from reductions in AFDC and SSI benefits.

Since the Committee will be reauthorizing the Food Stamp Program for Fiscal Year 1983, and beyond, and clearly will make some changes in the program, but, as yet, has not received the Administration's detailed legislative proposals, no specific level of funding is recommended. Instead the Committee supports a range of figures between the CBO current services baseline and the sums requested by the Administration.

		FY 1983	FY 1984	FY 1985
2) Nutrition Assistance for the Territories* *(food stamp portion)				
CBO Baseline....	BA	45	46	49
	0	44	45	48
	BA	- 11	- 12	- 15
	0	- 10	- 11	- 14

The President has proposed to provide nutrition assistance grants to the territories which combines food stamps with other nutrition programs in one block grant.

The Committee endorses this proposal.

		FY 1983	FY 1984	FY 1985
3) Commodity Supplemental Food Program				
CBO Baseline....	BA	31	32	34
	0	31	32	34
	BA	0 to - 31	0 to - 32	0 to - 34
	0	0 to - 31	0 to - 32	0 to - 34

The President has proposed to transfer WIC and the Commodity Supplemental Food Program to the Department of Health and Human Services as part of a block grant for services to women, infants, and children, at an overall reduction for both programs of $282 million.

The Committee supports a range between the block grant and continuation of this program at current services, including an additional $900,000 for the two elderly demonstration projects, one in Detroit, Michigan, and the other in New Orleans, Louisiana, which have not yet begun.

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		FY 1983	FY 1984	FY 1985
4) Nutrition Assistance to Puerto Rico				
CBO Baseline	BA	825	825	825
	O	825	825	825
	BA	...	...	...
	O	...	...	...

The President proposes and the Committee supports the continuation of the block grant for nutrition assistance for Puerto Rico which was mandated in the Omnibus Budget Reconcilation Act of 1981.

		FY 1983	FY 1984	FY 1985
5) Food Donations Program				
CBO Baseline....	BA	49,785	51,816	55,217
	O	49,025	51,211	54,204
	BA	+ 4	+ 5	+ 6
	O	+ 5	+ 6	+ 7

The President proposes an increase in funding because of the establishment of a food distribution program for low-income Indian households in the State of Oklahoma. The Committee agrees.

JIM WEAVER, OREG.,
CHAIRMAN

THOMAS S. FOLEY, WASH.
GEORGE E. BROWN, JR., CALIF.
BERKLEY BEDELL, IOWA
JERRY HUCKABY, LA.
LEON E. PANETTA, CALIF.
TOM DASCHLE, S. DAK.
BYRON L. DORGAN, N. DAK.
DON ALBOSTA, MICH.

E (KIKA) DE LA GARZA, TEX.,
EX OFFICIO MEMBER

GREGORY SKILLMAN,
SUBCOMMITTEE STAFF DIRECTOR

U.S. House of Representatives
Committee on Agriculture
Subcommittee on Forests, Family Farms, and Energy
Room 1301, Longworth House Office Building
Washington, D.C. 20515

RON MARLENEE, MONT.,
RANKING MINORITY MEMBER

GEORGE HANSEN, IDAHO
ARLAN STANGELAND, MINN.
JOE SKEEN, N. MEX.
SID MORRISON, WASH.
GENE CHAPPIE, CALIF.

WILLIAM C. WAMPLER, VA.,
EX OFFICIO MEMBER

RICHARD G. FRITS,
MINORITY CONSULTANT

March 2, 1982

Memorandum

To: Members of the House Committee on Agriculture

From: JIM WEAVER, Chairman, Subcommittee on Forests, Family Farms, and Energy

Re: FY'83 Forest Service Budget/Recommendations to Budget Committee

1. There should be no increase in the budget over that total amount in the Administration's request. The Forest Service FY'83 budget totals $2,132,207,000. This is $181,700,000 over the level appropriated for FY'82.

2. The National Forest timber sales target of 12.3 billion board feet is 1.3 billion board feet over the FY'82 appropriated level. While the '82 appropriation provided enough funds to offer 11 billion board feet (BBF) for sale, according to Congressional Research Service, it is likely that the volume cut in FY'82 will reach only about 8 bbf. In fact, since 1977, the amount offered for sale has increasingly exceeded the amount actually sold and harvested.

TIMBER OFFERED, SOLD, AND HARVESTED--FISCAL YEARS 1977-1981

	1981	1980	1979	1978	1977
Offered:					
Volume (billion board feet)	12.2	12.4	12.4	12.2	11.0
Sold:					
Volume (billion board feet)	11.5	11.4	11.3	11.0	9.9
Harvested:					
Volume (billion board feet)	8.0	9.1	10.4	10.1	10.5

With the current depression in the lumber and housing industries, the total volume of timber sold, but not harvested, stands at the record level of 34 bbf. While it is normal to have 2 1/2 to 3 years worth of timber sold--under contract--but not yet harvested, the current volume far exceeds the normal level. For the years 1971-80, for example, the average amount under contract was 27.7 bbf.

OPTION TO REPROGRAM TIMBER SALE FUNDS

The Administration proposes a budget of $188.3 million to administer and manage the 12.3 bbf timber sales target. This represents an increase of $29.9 million or 19%, over the amount appropriated in FY'82.

This budget is based upon an overly optimistic projection of housing recovery, which anticipates 1.5 million starts by the end of 1982 and continues upward. While we all wish this would be true, most projections are more conservative. Housing starts were just over 1.0 for 1981, and CBO estimates that they will be only 1.2 by the end of 1982. The CBO does not project 1.5 million starts until the end of 1983.

Given the high volume of timber under contract, a more modest timber sales level should be sufficient to supply housing demand, even if housing starts exceed both CBO and Forest Service projections. The Forest Service should, therefore, closely monitor housing market demands for timber. If the trends in housing fail to meet expectations, the Forest Service should request money from timber sales administration and management be reprogrammed to priority areas listed by this Committee. Money from this account should also be reprogrammed if total volume of timber under contract exceeds approximately 35 bbf. Priority accounts that should be the recipients of such a reprogramming request are Timber Stand Improvement, Research, State and Private Forestry, and Wood Residue Utilization.

3. INCREASED ROAD CONSTRUCTION FUNDS SHOULD BE REDISTRIBUTED

Timber sales should be concentrated in already accessible areas, so that expenditures for road construction and maintenance can be held down. There are two Forest Service accounts for road construction: Timber purchaser-built roads, and Forest Service-built roads requiring a specific appropriation.

The Timber purchaser road budget is $269 million, an increase of $26 million, or 11%. Roads constructed under this account are funded with revenue from timber actually harvested. This account was taken off-budget by the FY-82 Interior Appropriation Act.

The budget for Forest Service Appropriated Road Construction is $271.6 million, up $38.7 million, or 17%, from the FY'82 appropriation. This budget should be held at the FY'82 level, and the extra $38.7 million used for other Forest Service programs.

4. TIMBER STAND IMPROVEMENT SHOULD BE INCREASED

The Forest Service states that the level of its total existing timber stand improvement (TSI) needs is 1.7 million acres. Thinning, brush control, elimination of undesirable species, and similar actions must be carried out on these lands in order to make them fully productive. Just to maintain or improve the condition of timber stands the Forest Service must accomplish 408,000 acres of TSI per year. Yet the Agency has budgeted for only 302,000 acres. This is a reduction of 15,000 acres from last year's low level, and represents a prescription for timber stand deterioration.

Therefore, a portion of the excess $38.7 million from the Appropriated Road Construction budget should be redistributed to bring TSI up closer to 408,000 acres for FY'83. An addition of $14.4 million to the TSI budget would provide for just over 400,000 acres to be treated. Though not quite achieving the necessary level, and ignoring the TSI backlog, it is more in line with the actual needs of the National Forests. TSI is a labor intensive, cost-effective investment in future forest productivity. It provides jobs regardless of current housing market conditions.

5. WOOD RESIDUE UTILIZATION SHOULD BE INCREASED

The wood residue utilization program should be funded at higher levels. This is especially necessary, given the anticipated demise of the DOE. There is high interest in the Subcommittee for a more agressive program of wood residue utilization. This program should be increased from its budgeted level of $2 million, to at least $5.5 million. The Forest Service should use some of this increase to administer more long-term contracts to concentrate and remove wood residues from forest land for energy use.

6. STATE AND PRIVATE FORESTRY SHOULD BE RESTORED

State and Private Forestry has been reduced dramatically. It has been cut by 25%, dow to $47.5 million, $16 million less than the '82 level. These funds are expenditures designed to increase forest productivity on lands under state or private ownership, which comprise 58% of the nation's commercial timberland. Consistent underfunding of this program reduces forest productivity. Reductions in this program also affect full utilization of wood for energy from these same ownerships. At least $12 million of this funding should be restored.

7. FORESTRY RESEARCH SHOULD BE RESTORED

Research has taken a 17% cut of $12 million. This drastic reduction must be softened. Along with the many vital research projects curtailed or eliminated as a consequence of this cut, the forest resource inventory cycle is being delayed. This is of special concern because it means that it will take more time to gather the necessary information to complete accurate land management plans, identify forest resources, and assess land capabilities. At least $11 million of this cut should be restored.

SUMMARY

Assuming the Forest Service Appropriated Road Construction budget was held to its FY'82 level of $232.9 million, and the $38.7 million increase was instead distributed to other Forest Service programs:

$12.2 million could be added to TSI,

$3.5 million could be added to Wood Residue Utilization,

$12 million could be added to State and Private Forestry, and

$11 million could be added to Research.

Additional funds could be made available to these programs by reprogramming funds now budgeted for timber sales administration, if housing starts did not increase as projected, or if timber sale volume under contract exceeded approximately 35 bbf.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 3, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: Committee recommendations on the FY 1983 USDA budget; National Forest lands conveyance; Release reversionary interests in certain Arkansas lands; Potato Research and Promotion Act amendments; WEB pipeline and study of S.D. water project

Bill Nos. H.R. 3021, H.R. 3881, H.R. 2160, H.R. 4347

The Full ~~(Sub)~~ Committee

met in Open Session at 9:50 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones, Tenn.
Mr. Brown
Mr. Bowen
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer

Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Roberts, Kans.
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Chris Aldrete, Special Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Steve Adams, Staff Assistant
Roger Allbee, Minority Consultant
Dave Ebersole, Minority Consultant
Richard Fritz, Minority Consultant
Tom Adams, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

None

Statements Filed:

None

Wednesday, March 3, 1982
Full Committee
Open Business Meeting
Committee recommendations on the FY 1983 USDA budget; National Forest lands conveyance; Release reversionary interest in certain Arkansas lands; Potato Research and Promotion Act amendments; WEB pipeline and study of S.D. water project
H.R. 3021, H.R. 3881, H.R. 2160, H.R. 4347

Action taken:

-- without objection, agreed to Harkin proposal to direct the Animal and Plant Health Inspection Service to expend $1.5 million out of the available funds within the APHIS budget, for the eradication of pseudorabies

-- by a voice vote agreed to Committee recommendations on the Fy 1983 USDA budget

-- by a voice vote agreed to Foley amendment to Marlenee amendment to H.R. 3120, relative to disposal of small land tracts

-- by a voice vote ordered H.R. 3120, as amended, reported to the House

-- by a voice vote ordered H.R. 3881, as amended, reported to the House

-- by a voice vote ordered H.R. 2160, as amended, reported to the House

-- by a voice vote agreed to Jones, Tenn., motion to refer H.R. 4347 back to the Subcommittee on Conservation, Credit, and Rural Development for a period of one week

Chairman de la Garza called the meeting to order and informed the Members that the full Committee had tentatively agreed on recommendations on the FY 1983 budget for the Department of Agriculture, on March 2, and asked if there were further discussion.

Mr. Harkin was recognized to offer a suggestion that the Animal and Plant Health Inspection Service be directed to expend $1.5 million to be utilized from the available funds out of the APHIS budget for the eradication of pseudorabies. After a brief discussion, this recommendation was agreed to, without objection.

Wednesday, March 3, 1982
Full Committee
Open Business Meeting
Committee recommendations on the FY 1983 USDA budget; National Forest lands conveyance; Release reversionary interest in certain Arkansas lands; Potato Research and Promotion Act amendments; WEB pipeline and study of S.D. water project
H.R. 3021, H.R. 3881, H.R. 2160, H.R. 4347

Mr. Foley offered a motion to report the recommendations of the Committee to the Committee on the Budget in accordance with the Congressional Budget and Impoundment Act, and his motion was agreed to by a voice vote. The Chairman asked that the record show that 22 Members (a quorum) were present when the meeting was conveyed.

The Chairman recognized Mr. Weaver, chairman of the Subcommittee on Forests, Family Farms, and Energy, to discuss two bills reported from that subcommittee. H.R. 3021, authorizing the Secretary to convey certain National Forest lands, was considered first. A Committee Print of the bill as reported from the subcommittee and a brief explanation are attached.

After Mr. Weaver's presentation, Mr. Marlenee, author of the legislation, was recognized to offer an amendment (attached) relative to allowing a State or local government to dispose of small land tracts without coming to Congress for legislative approval. Mr. Weaver expressed opposition to the proposal and Mr. Foley offered language to amend the Marlenee amendment to the effect that after 15 years, a State, local, or municipal government could transfer small tracts for other than public use; the Forest Service would be notified and in turn, notify the appropriate House and Senate Committees that the transfer would be made within a certain time period if no objection had been raised by Congress. Mr. Weaver accepted the Foley proposal (language to be perfected by counsel), and the Marlenee amendment, as amended, was agreed to by a voice vote.

Mr. Weaver moved to order H.R. 3021, as amended, reported to the House and by a voice vote his motion was agreed to in the presence of a quorum.

Mr. Weaver explained H.R. 3881, to release a reversionary interest in certain Arkansas lands. A Committee Print of the bill as reported from subcommittee and a brief explanation are attached. Mr. Anthony, author of the bill, was recognized to discuss the need for the legislation, and after a brief discussion it was moved to report the bill to the House. The Chairman asked for a voice vote and the ayes prevailed. Thus, H.R. 3881, as amended, was ordered reported to the House in the presence of a quorum.

Wednesday, March 3, 1982
Full Committee
Open Business Meeting
Committee recommendations on the FY 1983 USDA budget; National Forest lands conveyance; Release reversionary interest in certain Arkansas lands; Potato Research and Promotion Act amendments; WEB pipeline and study of S.D. water project
H.R. 3021, H.R. 3881, H.R. 2160, H.R. 4347

Chairman de la Garza, in the absence of Mr. Richmond, chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition and Mr. Panetta, the author of H.R. 2160, made comments on the legislation as amended by the subcommittee. A Committee Print of the bill as reported and a brief explanation are attached.

After a brief discussion, Mr. Wampler moved to report the bill, as amended, to the House. The Chairman asked for a voice vote and the ayes prevailed. Thus, H.R. 2160 was ordered reported to the House in the presence of a quorum.

The Chairman recognized Mr. Jones of Tennessee to present H.R. 4347, authorizing the development of the WEB pipeline and the study of South Dakota water projects. A Committee Print of the bill as reported is attached.

Mr. Jones summarized the action by the subcommittee, and Mr. Roberts of South Dakota offered an amendment in the nature of a substitute (attached) and explained its provisions. Considerable and controversial discussion ensued, whereupon the Chairman, in view of the unresolved differences manifested in the debate, suggested these differences could best be resolved in subcommittee. Mr. Jones moved to recommit the bill to the Subcommittee on Conservation, Credit, and Rural Development with instructions to report it to the full Committee within one week, and he requested all Members of the subcommittee to attend the meeting. The Chairman asked for a voice vote on the motion, and the ayes prevailed. Thus, H.R. 4347 was recommitted to the subcommittee.

There being no further business, the Committee adjourned at 11:16 a.m., to reconvene subject to the call of the Chair.

Peggy Pecore
Peggy Pecore

[COMMITTEE PRINT]

[As ordered reported, amended, by the Subcommittee on Forests, Family Farms and Energy on July 15, 1981]

97TH CONGRESS
2D SESSION

H. R. 3021

To authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1981

Mr. MARLENEE (for himself and Mr. WEAVER) introduced the following bill; which was referred jointly to the Committees on Agriculture and Interior and Insular Affairs

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A BILL

To authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TRANSFER OF SMALL PARCELS

SEC. 101. The Secretary of Agriculture, referred to in this title as "the Secretary", may, when the Secretary determines it to be in the public interest (1) sell, exchange or interchange, by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 102; and (2) accept, as consideration for the lands sold, exchanged or interchanged, other lands, interest in lands, or cash payment, or any combination of such forms of consideration which, in the case of sales or exchanges, are at least equal to the fair market value of the lands, including the mineral estate, sold or exchanged by the Secretary, or, in the case of interchanges, approximate in value the lands, including the mineral estate, interchanged by the Secretary. The Secretary shall insert in any such quitclaim deed such terms, covenants, conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and wilderness values of the National Forest System and provision for appropriate public access to and use of lands within the System.

SEC. 102. The National Forest System lands which may be sold, exchanged or interchanged under this title are those (1) the exchange, sale or interchange of which is not practicable under any other authority of the Secretary; (2) which, in the case of sales or exchanges, have a fair market value, as determined by the Secretary through appraisal within one year before or after the date of application for sale or exchange is made to the Secretary, or, in the case of interchanges, have an approximate value, as determined by the Secretary, of not more than $150,000; and (3) which are (A) parcels of 40 acres or less interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and are determined by the Secretary, because of location or size, not to be subject to efficient administration; (B) parcels of five acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was no such encroachment; or (C) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States: *Provided*, That abutting landowners shall be given the first opportunity to acquire such rights-of-way.

SEC. 103. Any person to whom lands are conveyed pursuant to this title shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In the case of road rights-of-way conveyed pursuant to this title, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in cases in which the Secretary determines it would be consistent with the public interest, waive the payment of costs or reimbursement for the value of improvements to rights-of-way otherwise required by this section.

SEC. 104. Conveyance of any road rights-of-way under this title shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

SEC. 105. For purposes of this title, (1) the word "person" includes any State or any political subdivision or entity thereof, and (2) the word "interchange" means a transfer of lands under which the Secretary, in the Secretary's sole discretion, trades titles to lands with a person under such simplified procedures as the Secretary may by regulation prescribe with respect to appraisal, survey, notice and other factors.

SEC. 106. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this title.

SEC. 107. Nothing in this title shall authorize conveyance of public lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National System of Trails, and any national recreation area.

TITLE II—EXCHANGE OF CERTAIN NATIONAL FOREST AND OTHER LANDS

SEC. 201. The Act of December 4, 1967 (Public Law 90–171; 16 U.S.C. 485a) is amended to read as follows:

"Whenever an exchange of land is proposed by a State, county, or municipal government or public school district or other public school authority under the Act of March 20, 1922 (42 Stat. 465), as amended (16 U.S.C. 485–486), or other authority under which the Secretary of Agriculture is authorized to exchange national forest lands or other lands administered by the Forest Service, if the State, county, or municipal government or public school district or public school authority proposing the exchange has insufficient land to offer, the exchange may be completed upon deposit with the Secretary of Agriculture of a portion or all of the value of the selected land. Any amount so deposited shall be covered into a special fund in the Treasury which when appropriated shall be available until expended by the Secretary of Agriculture for the acquisition of lands in the same State as the selected lands and which are determined by the Secretary to be suitable for the same purposes as the selected lands. Lands so acquired shall have the same status and shall be subjected to the same laws, regulations, and rules as the selected lands.

"The provisions of this Act shall not be applicable to the conveyance in exchange of any parcel of land which (1) exceeds forty acres in size or $150,000 in value, in the case of an exchange with any one State, county, or municipal government; or (2) exceeds eighty acres in size, in the case of an exchange with any one public school district or other public school authority. If land conveyed to any State, county, or local government or public school district or other public school authority under any authority referred to in this Act shall ever cease to be used for a public purpose, all right, title, and interest in and to such land, and any improvements located thereon, shall revert to and become the property of the United States, which shall have immediate right of entry thereon.".

TITLE III—CONGRESSIONAL REVIEW OF CERTAIN LAND EXCHANGES

SEC. 301. (a) The Secretary of Agriculture, referred to in this title as "the Secretary", shall, in all cases in which the value of the land proposed to be purchased or the national forest land proposed to be exchanged by the Secretary exceeds $150,000, notify the appropriate committees of jurisdiction of the House of Representatives and the Senate of the Secretary's intention to purchase lands for the National Forest System or to make an exchange of lands under section

7 of the Act of March 1, 1911 (16 U.S.C. 516) or the Act of March 20, 1922 (16 U.S.C. 485–486).

(b) The Secretary may complete any purchase or exchange of lands subject to subsection (a) upon the expiration of thirty calendar days after notice of the intended exchange is received by the appropriate committees of jurisdiction unless, prior to the expiration of such thirty-day period, any of such committees adopts a resolution disapproving the purchase or exchange, in which event the purchase or exchange shall not be made.

SEC. 302. Section 17(b) of the National Forest Management Act of 1976 is repealed.

TITLE IV—SMALL SALES

SEC. 401. Notwithstanding any other provisions of law, the Secretary of Agriculture, referred to in this title as "the Secretary", may sell individual trees or small numbers of trees located on National Forest System lands and determined by the Secretary to be dead, diseased, damaged, dying, or down, as low volume per acre sanitation or salvage timber harvests under the following conditions:

(1) the appraised value of the sale is less than $10,000;

(2) the appraised value of the sale is equal to or greater than the estimated costs associated with the sale; and

(3) the sale is determined by the Secretary to be consistent with multiple use management.

SEC. 402. Sales made under this title shall not be subject to advertising or competitive bidding, but shall be made pursuant to negotiations with persons who have located and indicated an interest in purchasing timber described in section 401.

SEC. 403. (a) The Secretary shall establish and administer a special small salvage fund into which all proceeds from the sale of trees under this title shall be deposited. To the extent provided by appropriation acts, amounts in the fund shall be available to the Secretary for payment of all expenses related to such sales.

(b) The Secretary shall periodically transfer any amounts in the fund in excess of $1,000,000 to the Secretary of the Treasury for covering into the miscellaneous receipts in the Treasury of the United States.

SEC. 404. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this title.

SEC. 405. The provisions of this title shall become effective on October 1, 1982.

○

BRIEF EXPLANATION OF H.R. 3021 AS REPORTED BY THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY ON JULY 15, 1981

The bill consists of the following four titles:

TITLE I - TRANSFER OF SMALL PARCELS

1. This title would authorize the Secretary of Agriculture to sell, exchange or interchange various small parcels of National Forest System lands, the disposition of which is not practicable under any other authority of the Secretary. The provisions of this title are very similar to those of a bill enacted in the closing hours of the 96th Congress but vetoed by the President because of his objection to a non-germane amendment added to the bill relating to the rental of lands of the Alaskan Railroad.

The parcels covered by this title are those which:

(a) have a value of not more than $150,000; and

(b) are 40 acres or less in size and are interspersed with or adjacent to lands already transferred out of Federal ownership under the mining laws; or

(c) are five acres or less in size and are encroached upon by improvements by persons who had no advance notice of such encroachment and who in good faith relied upon erroneous surveys, title searches or land descriptions; or

(d) are road rights-of-way no longer needed by the United States and surrounded by land not owned by the United States.

2. The person to whom lands are conveyed would be required to bear all reasonable costs of administration, survey, and appraisal incidental

to the conveyance, and, in the case of rights-of-way, to reimburse the United States for the value of any improvements, but the Secretary would be authorized to waive payment of such costs or reimbursement if so doing is determined to be consistent with the public interest.

3. The Secretary would be required to insert in the deed conveying parcels any conditions deemed necessary to ensure protection of the public interest, including protection of scenic, wildlife and wilderness values.

4. The term "interchange" would be defined as a transfer of lands under more simplified procedures than are ordinarily employed in exchanges.

5. Conveyances of lands within the Wilderness Preservation System, the National Wild and Scenic Rivers System, the National System of Trails, and any national recreation area, would be prohibited.

6. This title differs from the bill adopted by the 96th Congress in that it --

(a) imposes generally on all transactions authorized a $150,000 value limit which formerly had applied only to parcels interspersed with or adjacent to lands transferred under the mining laws;

(b) adds interchanges to sales and exchanges as means of accomplishing the disposition of the parcels involved;

(c) authorizes the Secretary to waive not only payment of costs of conveyances but reimbursement of the value of improvements on rights-of-way as well; and

(d) in the case of encroachments, allows conveyance if there was good faith reliance on any erroneous survey, rather than on erroneous non-Federal surveys only.

TITLE II - EXCHANGE OF CERTAIN NATIONAL FOREST LANDS

1. This title would amend legislation related to the regular exchange authorities of the Secretary of Agriculture with respect to National Forest System lands. Under current law there are special provisions for exchanges proposed by public school districts or other public school authorities - if the body proposing the exchange has insufficient land to offer, the exchange may be completed by deposit with the Secretary of the value of the land concerned, subject to a limit of 80 acres on the amount of land that may be available to any one school district or authority.

2. This title would expand such authority to (a) include as proposing bodies State, county or municipal governments, as well as school districts or other public school authorities; and (b) limit exchanges to parcels of 40 acres in size and $150,000 in value in the case of any exchange with a State, county or municipal government, or 80 acres in size in the case of any exchange with a school district or authority.

3. This title also would provide that if any lands obtained under this authority cease to be used for a public purpose, they would revert to the United States.

TITLE III - CONGRESSIONAL REVIEW OF CERTAIN LAND EXCHANGES

1. This title would require the Secretary of Agriculture to notify the committees of jurisdiction of the House and Senate of the Secretary's intention to purchase land for the National Forest System or to make an exchange of System lands in all cases in which the value of the land to be purchased or exchanged exceeds $150,000.

2. The Secretary would be authorized to complete any such purchase or exchange upon the expiration of 30 calendar days after notice to the

committees unless, prior to expiration of the 30-day period, any of the committees adopts a resolution disapproving the purchase or exchange.

3. This title also would repeal the provision of current law (section 17(b) of the National Forest Management Act of 1976) which prohibits the Secretary from entering into National Forest System purchases or exchanges under the Weeks Act valued at $25,000 or more until 30 days after making a detailed report of the transaction to the House and Senate Agriculture Committees.

TITLE IV -- SMALL SALES

1. This title would authorize the Secretary of Agriculture to sell individual trees or small numbers of trees identified as dead, diseased, dying or down if:

(a) the appraised value of the sale is less than $10,000;

(b) the appraised value of the sale is equal to or greater than the estimated costs of the sale; and

(c) the sale is determined to be consistent with multiple use management.

2. This title would provide for sales to be made pursuant to negotiations with those who locate and wish to purchase the trees, rather than through advertising and competitive bidding.

3. This title would direct the Secretary to (a) establish and administer a fund into which all of the proceeds of such sales would be deposited and out of which, subject to appropriation, expenses of sale would be paid; and (b) transfer periodically any amounts in the fund in excess of $1,000,000 to the Secretary of the Treasury for covering into the miscellaneous receipts in the Treasury.

AMENDMENT TO H.R. 3021, AS AMENDED

OFFERED BY MR. MARLENEE

On page 6, line 10, strike out "ever" and insert in lieu thereof ", within 15 years after the date of conveyance,".

Need for amendment: This would allow, after fifteen years, the State or local government to dispose of these small land tracts without coming to Congress for legislative approval.

[COMMITTEE PRINT]

[As reported, amended, by the Subcommittee on Forests, Family Farms, and Energy, Oct. 15, 1981]

97TH CONGRESS
2D SESSION

H. R. 3881

To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 1981

Mr. ANTHONY introduced the following bill; which was referred jointly to the Committees on Agriculture and Interior and Insular Affairs

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A BILL

To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a)(1) Subject to subsection (b), the Secretary of Agriculture shall release on behalf of the United States, with respect to lands within the Southern Arkansas Land Utilization Project (AK–LU–22) conveyed by the United States to the Arkansas Forestry Commission (hereinafter referred to as the "Commission") by a quitclaim deed dated February 11, 1980, the condition in such deed which requires that such lands be used for public purposes, and if not so used, that the lands revert to and revest in the United States.

(2) Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release authorized in paragraph (1).

(b) The Secretary of Agriculture shall release the condition referred to in subsection (a)(1) of this section only with respect to lands covered by and described in an agreement or agreements entered into between the Secretary and the Commission in which the Commission, in consideration of the release of such condition as to such lands, agrees that—

(1) the Commission will not exchange any parcel or tract of the lands referred to in subsection (a)(1) for other property (real or personal) unless—

(A) the fair market value of such property is approximately equal to the fair market value of such parcel or tract, and

(B) after such exchange, such property will be used exclusively for public purposes, and

(2) the Commission will not sell, lease, or otherwise dispose of any parcel or tract of such lands unless the proceeds thereof are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes.

SEC. 2. (a) Subsequent to any release executed by the Secretary of Agriculture under section 1, the Commission may apply to the Secretary of the Interior seeking to acquire all the undivided mineral interests of the United States in any parcel or tract of the lands to which such release applied, and the Secretary of the Interior shall, subject to subsection (b), convey such mineral interests as requested.

(b) The Secretary of the Interior shall not convey the undivided mineral interests of the United States in any parcel or tract as requested in an application filed by the Commission under subsection (a) unless—

(1) such application is accompanied by a sum of money which the Secretary of the Interior determines is necessary to pay the administrative costs involved in conveying such mineral interests to the Commission, including the costs of determining the mineral charac-

ter of such parcel or tract and the costs of establishing the fair market value of such mineral interests, and

(2) the Commission, in consideration of such conveyance, pays to the Secretary of the Interior—

(A) $1, in the case of any such parcel or tract determined by the Secretary of the Interior to have no mineral value and to be under no active mineral development or leasing, or

(B) the fair market value of such mineral interests (as determined by the Secretary of the Interior), in the case of any such parcel or tract not subject to subparagraph (A).

BRIEF EXPLANATION OF H.R. 3881, AS ORDERED REPORTED BY THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY ON OCTOBER 15, 1981

1. Under earlier legislation, the Secretary of Agriculture conveyed a certain tract of land in Arkansas to the Arkansas Forestry Commission. The deed of conveyance contained a condition providing that if the tract ceases to be used for public purposes it will revert to the United States. The bill would direct the Secretary to release this condition, but only if the Arkansas Forestry Commission agrees: (a) that it will not exchange any portion of the tract involved unless the fair market value of the property to be obtained is approximately equal to that of the parcel to be exchanged; (b) that after the exchange the newly-acquired property will be used exclusively for public purposes; and (c) that it will not otherwise dispose of any portion of the tract unless the proceeds are deposited in an account open to inspection by the Secretary, and used, if withdrawn from the account, exclusively for public purposes.

2. The bill also would permit the Commission, after the release by the Secretary of Agriculture of the condition referred to above, to apply to the Secretary of the Interior to acquire the undivided mineral interests of the United States in the tract in question. It would direct the Secretary to convey such interests upon payment by the Commission of a sum necessary to cover administrative costs of the conveyance, plus either (a) one dollar if it is determined that the tract has no mineral value and is under no active mineral development or leasing, or (b) the fair market value of any mineral interests of the tract.

COMMITTEE PRINT

(As reported, amended, by the Subcommittee on Domestic Mark
Consumer Relations, and Nutrition on September 24, 1981)

97TH CONGRESS
1ST SESSION

H. R. 2160

To amend the Potato Research and Promotion Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1981

Mr. PANETTA (for himself and Mr. MORRISON) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Potato Research and Promotion Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Potato Research and Promotion Act Amendments of 1981".

REQUIRED TERMS IN PLANS

Sec. 2. Section 308 of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended by--

(1) amending subsection (b) to read as follows:

"(b) Providing that the board shall be composed of representatives of producers and the public as selected by the Secretary. The representatives of producers shall be nominated by producers in such manner as may be prescribed by the Secretary. Public representation to the board shall be nominated by board members in such manner as may be prescribed by the Secretary. If producers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation provided for in such plan.";

(2) amending subsection (e) to read as follows:

~~Sec. 2. Section 308(e) of the Potato Research and Promotion Act (7 U.S.C. 2671) is amended by striking out all existing language and substituting the following:~~ "(e) "Providing that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate required for such costs as may be incurred pursuant to subsection (d) of this section: *Provided,* That the rate of assessment for fiscal year 1982 and each year thereafter shall not exceed one-half of 1 per centum of the immediate past ten-year United States average price received by growers as reported by the United States Department of Agriculture."; and

(3) inserting before the semicolon in subsection (f)(1) the following: ", including any referendum and administrative costs incurred by the Department".

ENFORCEMENT

Sec. 3. Section 312 of the Potato Research and Promotion Act (7 U.S.C. 2621) is amended to read as follows:

"Sec. 312. (a) The several district courts of the Unit States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any plan or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: Provided, That nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General violations of this Act whenever the Secretary believes that the administration and enforcem of the program would be adequately served by administrative action pursuant to paragraph (b) of this section or suitable written notice or warning to any person committing such violations.

b)(1) Any person who violates any provision of any plan or
gulation issued by the Secretary pursuant to this Act, or who
ils or refuses to pay, collect, or remit any assessment or
e duly required of such person thereunder, may be assessed a civil
nalty by the Secretary of not less than $500 or more than
,000 for each such violation. Each violation shall be a sepa-
te offense. In addition to or in lieu of such civil penalty
e Secretary may issue an order requiring such person to cease
d desist from continuing such violations. No penalty shall
assessed or cease and desist order issued unless such person
given notice and opportunity for a hearing before the Secre-
ry with respect to such violation, and the order of the Secre-
ry assessing a penalty or imposing a cease and desist order
all be final and conclusive unless the affected person files
appeal from the Secretary's order with the appropriate United
ates court of appeals.

2) Any person against whom a violation is found and a civil
nalty assessed or cease and desist order issued under paragraph
)(1) of this section may obtain review in the court of appeals
the United States for the circuit in which such person resides
has his place of business or in the United States Court of
ppeals for the District of Columbia Circuit by filing a notice
appeal in such court within thirty days from the date of
ch order and by simultaneously sending a copy of such notice

by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

"(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review pursuant to the procedures specified in paragraphs (b)(1) and (2) of this section, of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

REQUIREMENT OF REFERENDUM

SEC. ~~3~~4. Section 314 (7 U.S.C. 2623) of the Potato Research and Promotion Act is amended ~~by the addition of the following statement: "The failure of potato producers to approve an amendment to any potato research and promotion plan shall not be deemed to invalidate the plan existing at the time amendments are being voted upon.".~~ to read as follows:

"Sec. 314. (a) The Secretary shall conduct a referendum for the purpose of ascertaining whether the issuance of a plan is approved or favored among producers who, during a representative period determined by the Secretary, have been engaged in the production of potatoes.

"(b) No plan issued pursuant to this title shall be effective unless the Secretary determines that the issuance of such plan is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less than a majority of the producers voting in such referendum.

"(c) The failure of potato producers to approve an amendment to any potato research and promotion plan shall not be deemed to invalidate the plan existing at the time the amendments are being voted upon.

"(d) The ballots and other information or reports which reveal or tend to reveal the vote of any producer or his production of potatoes shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall upon conviction be subject to the penalties provided in paragraph 310(c) above.".

BRIEF EXPLANATION OF H.R. 2160

To Amend the Potato Research and Promotion Act

(As reported, amended, by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition on September 24, 1981)

Adds Public Representation on the Board

Section 308(b) is amended to provide for public representation on the board which heretofore was restricted to producers.

Increases Rate of Assessment

Section 308(e) is amended to change the maximum rate of assessment from 1 cent per hundredweight to not more than one-half of one percent of the immediate past 10-year U.S. average price received by growers. Based on average prices during the period 1971-1980, a rate of assessment could be approximately 1.9 cents per hundredweight. In 1983, such a rate of assessment would generate revenues of about $4.2 million, compared with current revenues of approximately $2.3 million per year. Additionally, the proposed bill makes provision for retention of the existing program in the event that producers fail to approve the revised plan in referendum.

Due to spiraling costs over the past decade, the program activities of the Potato Board have been substantially curtailed. The increase in the assessment rate, as proposed by H.R. 2160, would allow the program to return to earlier levels of activity.

Reimburses USDA Expenses

Section 308(f)(1) is amended to provide for payment to USDA for administrative and referendum costs.

Modifies Enforcement Provisions

Section 312, the enforcement provisions, are extensively amended to provide authority to deal directly with violators through the assessment of civil penalties and the issuance of cease and desist orders. This section presently requires the Department to resort to action in the Federal courts in all cases to enforce the provisions of the Act. The Department believes that the enforcement of the order could be accomplished more effectively if the Act authorized the issuance of cease and desist orders and the assessment of civil penalties by the Secretary after opportunity for an administrative hearing, rather than provisions for fines imposed by the Federal courts. Such provisions would allow the Department to deal directly with violators during enforcement proceedings, thus increasing the probability of gaining compliance, and would spare the presently overburdened Federal court system the responsibility of hearing at the trial level those cases which could be effectively resolved through administrative action. In addition, it is anticipated that such authority could speed up the process for enforcing the provisions of the Act.

These changes would conform the Potato Research and Promotion Act to the Department's policy relative to commodity research and promotion programs.

Section 312--

(a) will allow Secretary to handle violations administratively rather than going through Federal district court.

(b)(1) authorizes imposition of civil penalties for violations and/or cease and desist orders.

(2) provides procedures whereby violators may appeal to Federal courts of appeal from Secretary's administrative decision.

(3) provides for civil penalty for failure to comply with Secretary's cease and desist order after order is final and unappealable.

(4) provides collection procedure in the event violator fails to pay civil penalty.

Changes Referendum Voting Procedures and Effect of Results

Section 314 is rewritten to provide a safeguard that would keep in force any presently existing plan in the event potato producers fail to approve an amendment to any potato research and promotion plan.

SUBCOMMITTEE PRINT

97TH CONGRESS
1ST SESSION

H. R. 4347

To authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1981

Mr. ROBERTS of South Dakota (for himself and Mr. DASCHLE) introduced the following bill; which was referred jointly to the Committees on Agriculture and Interior and Insular Affairs

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A BILL

To authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) the WEB rural water development project, authorized by section 9 of Public Law 96–355, is reauthorized, subject to the following changes in such section:

(1) the proviso clauses contained in subsection (b) shall not apply to the WEB Rural Water Development Project;

(2) the first sentence of subsection (d) is stricken; and

(3) the first sentence of subsection (e) is stricken and the following sentence is inserted in lieu thereof: "The Secretary of Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section.".

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to proceed with the development of the WEB rural water development project, consistent with the terms of section 9(e) of Public Law 96–355, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.~~, except that such funds shall be made available directly to the WEB Association and shall not be transferred to the Department of Agriculture.~~

SEC. 2. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a study pursuant to this Act which shall include consideration of—

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri River basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri River basin program, North Dakota;

(3) a modified plan of development for the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri River basin program, South

Dakota, including alternative lands or reduced acreages; and

(4) the potential for development of any other water project or projects proposed by the Governor of the State of South Dakota, in accordance with the policies and priorities of the State, which the Secretary determines may qualify for Federal construction funding under the terms of this section.

(b) In formulating his recommendations to Congress the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944. In determining the feasibility of projects proposed by the State under this section the Secretary ~~shall~~ may use criteria no less favorable than those under which the Oahe unit, initial stage, was authorized.~~; except that the Secretary may use other criteria with the consent of the State.~~

(c) The Secretary shall report to Congress the findings of the studies, along with his recommendations for disposition of the Oahe unit, initial stage, for development of the Pollock-Herreid unit, and for Federal involvement in other projects proposed by the State.

(d) The Secretary may contract with the State to carry out the studies authorized by this section.

(e) The studies performed and the reports made under this section shall be of reconnaissance, appraisal, or feasibility grade as is appropriate to determine whether further action on the development of the Secretary's recommendations is warranted.

SEC. 3. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe unit, initial stage, and to release any and all funds accumulated by the Oahe conservancy subdistrict under the master contract~~.~~: *Provided*, *however*, That any such actions shall be done after consultation with the OAHE conservancy subdistrict and the Spink and West Brown irrigation districts.

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2(a)(1) of this Act.

SEC. 4. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Missouri River basin program pumping power to irrigation projects constructed in South Dakota by Indian tribes or by public entities organized under State law and which have been authorized by the Flood Control Act of 1944 to the request of the State of South Dakota or an Indian tribe, regardless of the source of construction funding for such irrigation projects.

SEC. 5. ~~There are authorized to be appropriated $__________ to carry out the provisions of this Act.~~ Effective October 1, 1981, there are authorized to be appropriated such funds as may be necessary to carry out the provisions of this Act.

H.R. 4317

97th CONGRESS
1st SESSION

To authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

IN THE HOUSE OF REPRESENTATIVES

July 30, 1981

Mr. ROBERTS of South Dakota (for himself and Mr. DASCHLE) introduced the following bill; which was referred jointly to the Committees on Agriculture and Interior and Insular Affairs.

A BILL

To authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) the WEB rural water development project, authorized by section 9 of Public Law 96-355, is reauthorized subject to the following changes in such section:

(1) the proviso clauses contained in subsection (b) shall not apply to the WEB Rural Water Development Project;

(2) the first sentence of subsection (d) is stricken; and

(3) the first sentence of subsection (e) is stricken and the following sentence is inserted in lieu thereof: "The Secretary of Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section."

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to proceed with the development of the WEB Rural Water Development Project, consistent with the terms of section 9(e) of Public Law 96-355, as amended by section 1(a)(3) of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

Sec. 2 (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a study pursuant to this Act which shall include consideration of --

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri River basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri River basin program, North Dakota; and

(3) a modified plan of development for the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri River basin program, South Dakota, including alternative lands or reduced acreages.

(b) In formulating his recommendations to Congress the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944.

(c) The Secretary shall report to Congress the findings of the studies, along with his recommendations for disposition of the Oahe unit, initial stage, for development of the Pollock-Herreid unit, and for Federal involvement in other projects proposed by the State.

(d) The Secretary may contract with the State to carry out the studies authorized by this section.

(e) The studies performed and the reports made under this section shall be of reconnaissance, appraisal, or feasibility grade as is appropriate to determine whether further action on the development of the Secretary's recommendations is warranted.

Sec. 3 (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe Unit, Initial Stage: Provided, however, that such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown Irrigation Districts; and provided further, that any and all funds accumulated by the Oahe Conservancy Subdistrict under the Master Contract shall be refunded to or otherwise expended for the benefit of the taxpayers of the subdistrict; and that any repayment obligation existing at the time of cancellation of the Master and Security Contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri Basin Program to be assumed by the beneficiaries of any future project which utilizes the Oahe Unit facilities for which the repayment obligation was incurred.

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East Canals; Cresbard and Byron Dams and Reservoirs; James and Bryon Pumping Plants; and associated features; shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2 (a)(1) of this Act.

Sec. 4. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Missouri River Basin program pumping power to new irrigation projects constructed by Indian tribes or by public entities organized under State law which have been authorized by the Flood Control Act of 1944 to receive such power. Such power shall be made available to the Grass Rope Unit, Pick-Sloan Missouri Basin Program. In recognition of the legislative intent of the Pick-Sloan Missouri River Basin Program to provide project power to financially sound irrigation development, such power may also be made available at the Secretary's discretion for other such Federal or cooperative Federal/non-Federal irrigation projects, if requested by the Governor or an Indian tribe, provided that the Secretary determines the project to be economically and financially feasible and in compliance with applicable environmental laws, and submits such proposals to Congress subject to disapproval by joint resolution within 90 days.

Sec. 5. Effective October 1, 1981, there are authorized to be appropriated such funds as may be necessary to carry out the provisions of this Act.

COMMITTEE ON AGRICULTURE
SUBCOMMITTEES:
WHEAT, SOYBEANS AND FEEDGRAINS
CONSERVATION, CREDIT AND RURAL DEVELOPMENT
TOBACCO AND PEANUTS
CONGRESSIONAL RURAL CAUCUS
CONGRESSIONAL TRAVEL AND TOURISM CAUCUS

CLINT ROBERTS
2ND DISTRICT, SOUTH DAKOTA
Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON OFFICE:
[illegible] Longworth Building
Washington, D.C. 20515
[illegible]
District Offices:
[illegible] Street
Rapid City, S.D. [illegible]
[illegible]
[illegible] Street, [illegible]
Pierre, S.D. [illegible]
[illegible]
[illegible] Street
Mitchell, S.D. [illegible]
[illegible]

January 27, 1982

The Honorable E. de la Garza
Chairman, Committee on Agriculture
Room 1301 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman de la Garza:

As you begin to formalize the schedule for the Agriculture Committee for the Second Session of the Ninety-seventh Congress, I respectfully request a Committee mark-up session on HR 4347, to reauthorize the WEB Rural Water System, and to provide for South Dakota water development.

The Conservation, Credit, and Rural Development Subcommittee held hearings and a mark-up session on HR 4347 last September. Since that session, the Administration has made further suggestions to improve the bill. I concur with the previous improvements and more recent suggestions by the Bureau of Reclamation concerning Section 4 of HR 4347.

Enclosed is a copy of the bill incorporating these changes for your use. The Administration, the State, and the delegation support these changes which enhance and improve the bill.

As you may be aware, recent events in Roscoe, South Dakota, demonstrate the urgent need for passage of HR 4347. The "Siberian Freeze" this month froze the entire water supply for the town. Roscoe is one of the 51 communities awaiting WEB. I am hopeful that the Committee will be able to move the bill soon.

If I may be of any assistance please feel free to contact me or my staff.

With best wishes,

Sincerely,

Clint

CLINT ROBERTS
Member of Congress

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, March 4, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: To authorize certain USDA employees to carry firearms in the performance of their duties

Bill Nos. H.R. 2035

The Department Operations, Research, and Foreign Agriculture (Sub) Committee met in Open Session at 9:40 am o'clock, in Room 1302 LHOB

The following members were present:

Mr. Brown
Mr. Wampler
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Chris Aldrete, Special Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Anita Brown, Staff Assistant
Jerry Welcome, Staff Assistant
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

1. Honorable Abraham Kazen, Member ofCongress from Texas

2. Dr. Harry Mussman, Administrator, Animal and Plant Health Inspection Service, Department of Agriculture,
   acc by: Mr. Tim Blackburn, Human Resources Division, Classification, APHIS
   Mr. Alan Smith, safety and labor affairs, APHIS

3. Panel:

   Mr. Thomas H. Deats, III, Inspector, Tick Eradication Program, Carrizo Springs, Texas, and President, Local 3106, American Federation of Government Employees

   Mr. Edwin Bowers, Inspector, Tick Eradication Program, Rio Grande City, Texas

   Mr. Mark Smith, Inspector, Tick Eradication Program, Del Rio, Texas

   Mr. Terry Rogers, American Federation of Government Employees, Washington, D.C.

Statements Filed:

Mr. Bowers - summary of incidents experienced by inspectors
letters from law enforcement agents in support of the legislation

mr. Deats - article explaining duties of tick inspectors

Thursday, March 4, 1982
Subcommittee on Department Operations, Oversight, and Foreign Agriculture
Public Hearing
To authorize certain USDA employees to bear firearms in the performance of their duties
H.R. 2035

Chairman Brown called the meeting to order and made a brief statement about the purpose of the hearing.

Congressman Kazen, author of the legislation, presented his statement and answered questions as appearing in the record.

Dr. Mussman gave a prepared statement after which he and his associates responded to questions. Dr. Mussman indicated the Administration is preparing suggested amendments to H.R. 2035.

The next three witnesses appeared as a panel. Mr. Deats presented his testimony and called on Mr. Smith and Mr. Bowers to relate some of their experiences as tick inspectors. Mr. Smith brought as an exhibit his saddle which had been struck as a bullet was recently fired at him while he was discharging his duties.

After the panel was questioned by Members of the Subcommittee, the meeting was adjourned at 10:50 a.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 6, 1982

(Sub) Committee: Tobacco and Peanut

Meeting: Public Field Hearing

Subject: Tobacco Price Support Program

Bill Nos.

The Tobacco and Peanut (Sub) Committee met in open Session at 10:00 am o'clock, in Room Old Auditoruim In Moultrie, Ga.

The following Members were present:

Mr. Rose - Chairman
Mr. Hatcher
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Joan Teague

Witnesses:

William B. Withers - Mayor - opening remarks
Ralph E. McCaskill, Jr. - prayer
Tommy Irvin - Ga. Commissioner of Agriculture
Robert "Bob" L. Nash - President Ga. Farm Bureau
B. Frank Strickland - farmer
J. W. York - USDA
Robert T. Cox - Ga. Tobacco Commission
Fred. W. Voigt - farmer
Frank R. Pidcock III- President, Ga. Tobacco Warehouseman Assoc.
R. Wilfred Tuggle - Leaf Tobacco Exporters Assoc.
Harold P. Rountree Jr. - farmer
Robert W. Miles - Univ. of Ga.
T. Pleas Strickland - Florida Dept of Agriculture
Billie J. Watson - farmer
Kenneth Durrence - farmer
Bruce W. Rutland - farmer

Statements Filed:

March 6, 1982
Tobacco and Peanut Subcommittee
Public Field Hearings
Tobacco Price Support Program

Chairman Charlie Rose called the meeting to order at 10:00 am and made a brief statement about the purpose of the hearing. Representative Hatcher also made opening remarks.

The witnesses listed on page 2 gave their testimony after which they responded to questions. The Subcommittee recessed from noon until two o'clock for lunch.

The Subcommittee adjourned at 4:00 p.m., to reconvene subject to the call of the chair.

Joan Teague
Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Monday, March 8, 1982

(Sub) Committee: Tobacco and Peanuts

Meeting: public field hearing

Subject: Report mandated by the Food and Agriculture Act of 1981, "Recommendations of the Secretary of Agriculture for Achieving a No Net Cost Tobacco Program" and other general tobacco issues.

Bill Nos. ----

The Tobacco and Peanuts (Sub) Committee

met in open Session at 9:30 am o'clock, in Room Ballroom, Martha Washington Inn, Abingdon, VA

The following Members were present:

Mr. Rose
Mr. Whitley
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Napier
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.
Mr.

Staff present:

Joan Teague, Staff Analyst, Subcommittee on Tobacco and Peanuts

Carol A. Dubard, Minority Staff Consulant, Subcommittee on Tobacco and Peanuts

Witnesses:

1. J. W. York, Deputy Director, Tobacco and Peanuts Division, ASCS, US Department of Agriculture, Washington, D. C.
2. William O. L. Myers, Manager, Burley Stabilization Corporation, Knoxville, Tennessee
3. Archie Bailey, Chairman, Burley Tobacco Committee, Virginia Farm Bureau Federation Meadowville, Virginia
4. Joe W. Hawkins, Tennesses Farm Bureau Federation, Mountain City, Tennessee
5. J. Paxton Marshall, Extension Specialist, Department of Agricultural Economics, Virginia Polytechnic Institute, Blacksburg, Virginia
6. Thomas B. Hall, Jr., Virginia Dark Fired Tobacco Commission, Farmville, Virginia
7. T. Harry Arnold, President, Washington County Farm Bureau, Abingdon, Virginia
8. William N. Hendricks, Burley Auction Warehouse Association, Lebanon, Virginia
9. Edgar P. Fannon, Pennington Gap, Virginia
10. Turner A. Gilmer, Jr., Castlewood, Virginia
11. Johnny H. Gilmer, Nickelsville, Virginia
12. Oscar F. Peters, Gate City, Virginia
13. Frank H. White, Abingdon, Virginia
14. Tom N. Austin, Chairman of the Board of Directors, The Austin Company, Inc., Greeneville, Tennessee
15. Rex R. Carter, Virginia Tobacco Council, Clinchport, Virginia
16. Jim E. Cozart, Cozart Warehouse, Abingdon, Virginia
17. Danny L. Calhoun, Gate City, Virginia
18. James Edward McConnell, Gate City, Virginia
19. Danny R. Meade, Gate City, Virginia
20. James F. Stallard, Nickelsville, Virginia
21. Richard L. Eggers, Abingdon, Virginia
22. William B. Boone, Abingdon, Virginia
23. Richard M. Summers, Abingdon, Virginia
24. James E. Miller, District Office of the Honorable James H. Quillen, Kingsport, Tennessee
25. Dennis R. Schuler, Chilhowie, Virginia
26. George H. Peery, Jr., Ceres, Virginia
27. James G. Johnson, Glade Spring, Virginia
28. Aileen B. Hobbs, Bristol, Virginia
29. James Harless, Abingdon, Virginia

Statements Filed:

1. Archie Bailey, on behalf of the Virginia Farm Bureau Federation
2. J. Paxton Marshall, on behalf of Extension Service at Virginia Polytechnic Institute, with two acccompanying exhibits
3. Thomas B. Hall, Jr., on behlaf of the Virginia Dark Fired Tobacco Commission

Monday, March 8, 1982
Subcommittee on Tobacco and Peanuts
Public Field Hearing
Report mandated by the 1981
Farm Bill, "Recommendations of the
Secretary of Agriculture for
Achieving a No Net Cost Tobacco
Program" and other general tobacco
issues
Abingdon, Virginia

Chairman Rose called the hearing to order at 9:30 a.m. The witnesses presented testimony in the order listed on the preceding page. Several witnesses were asked general questions regarding their statements.

The hearing continued until the last witness was heard and the Chairman adjourned the hearing at 2:35 p.m., subject to the call of the chair.

Carol A. Dubard
Minority Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 9, 1982

~~(Sub)~~ Committee: Full

Meeting: Public Hearing

Subject: To discuss the general agricultural export and trade situation

Bill Nos. None

The Full ~~(Sub)~~ Committee

met in Open Session at 9:35 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Bowen
Mr. Richmond
Mr. Harkin
Mr. Bedell
Mr. Huckaby
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer

Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Hagedorn
Mr. Coleman
Mr. Hopkins
Mr. Hansen
Mr. Roberts, Kans.
Mr. Emerson
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Gene Moos, Subcommittee Staff Director
John Bailey, Minority Consultant
Jim Tippett, Staff Assistant
Charles Benbrook, Subcommittee Staff Director
Jerry Jorgensen, Minority Consultant
Richard Fritz, Minority Consultant
Floyd Gaibler, Minority Consultant
Linda Miller, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Honorable John R. Block, Secretary of Agriculture,
   accomapnied by: Mr. Rolland E. Anderson, Assistant
   Administrator, Foreign Agricultural Service
   Mr. Donald J. Novotny, Director, Grain and Feed
   Division, FAS

2. Honorable William E. Brock, U.S. Trade Representative

3. Honorable Robert D. Hormats, Assistant Secretary of State for Economic and Business Affairs

4. Mr. Joseph Dennin, Deputy Assistant Secretary of Commerce for Africa

Statements Filed:

Honorable Paul Findley, Member of Congress from Illinois

Honorable Tom Hagedorn, Member of Congress from Minnesota

Tuesday, March 9, 1982
Full Committee
Public Hearing
To discuss the general agricultural export and trade situation

Chairman de la Garza called the meeting to order and made an opening statement about the purpose of the hearing. Mr. Wampler also made opening remarks.

The Chairman welcomed the witnesses and invited Secretary Block and his associates to come to the witness table. After the Secretary gave his prepared testimony, each remaining witness, in the order listed on page two, presented his testimony. All witnesses then responded to questions from Members of the Committee, en bloc, as appearing in the record.

Mr. Volkmer chaired the meeting at 12:15 until it was adjourned at 12:25 p.m., to reconvene at 2:00 p.m. this date to hear additional witnesses on this subject.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 9, 1982

(Sub) Committee : Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing -- a.m.

Subject: Oversight of USDA Extension Service, Science and Education Administration

Bill Nos.

The Department Operations, Research, and Foreign Agriculture (Sub) Committee met in open Session at 10:05 o'clock, in Room 1302

The following Members were present:

Mr. Brown, Chrm.
Mr. Richmond
Mr. Wampler
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
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Mr.

Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Charles Benbrook, Subcommittee Staff Consultant
Gerald R. Jorgensen, Minority Consultant
Tom Adams, Staff Consultant
Anita Brown, Staff Assistant
Glenda Temple, Staff Assistant
William A. Stiles, Legislative Assistant to Mr. Brown
Ron Baker, Consultant to Subcommittee

Witnesses:

1. Panel: State Extension Directors/Administrators

   Dr. Jerome B. Siebert, Director, Cooperative Extension, University of California, Berkeley, California.

   Dr. Daniel D. Godfrey, Sr., Administrator and Associate Dean, North Carolina A&T Agricultural Extension Program, Greensboro, North Carolina.

   Dr. Lowell H. Watts, Director of Extension, Colorado State University, Ft. Collins, Colorado

   Dr. Maynard C. Heckel, Director, Cooperative Extension Service, University of New Hampshire, Durham, New Hampshire

   Dr. Tal C. DuVall, Director, Georgia Extension Service, University of Georgia, Athens, Georgia

   Dr. Robert L. Crom, Director, Iowa Cooperative Extension Service, Iowa State University, Ames, Iowa

2. Panel: Extension Agents Associations

   Ms. Faith M. Cahalan, President, National Association of Extension Home Economists, County Extension Home Economist, Hand County, Miller, South Dakota

   Ms. Ellen P. Elliott, Past President, National Association of Extension 4-H Agents, Scotia, New York

   Mr. James A. Smith, County Extension Agent, National Association of County Agricultural Agents, Appomattox, Virginia

3. Panel: Local Government

   Hon. Richard G. DuPont, Chairman, Board of Commissioners, Hillsborough County, New Hampshire, and University of New Hampshire, Manchester, New Hampshire

Continued on page 3 --

Statements Filed:

None

Tuesday, March 9, 1982
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing -- a.m.
Oversight of USDA Extension Service, Science
and Education Administration

Witnesses Continued:

Hon. James J. Tayoun, Councilman, First District, City of Philadelphia, Philadelphia, Pennsylvania, representing urban gardening

Mr. Ernest C. Browne, Jr., Vice President, Michigan National Bank, representing 4-H urban programs, Lansing, Michigan

Mr. Benjamin L. Brown, City Solicitor, Baltimore, Maryland, and representative of University of Maryland Extension Service

Ms. Beth B. Valentine, Supervisor, Accomack County, Accomack, Virginia

Mr. Preston W. Davis, farmer and Chairman, Eastern Shore Soil & Water Conservation District, Davis Wharf, Virginia

Chairman Brown called the meeting to order and made a brief opening statement on the need to look at the programs under the jurisdiction of the Extension Service. Mr. Wampler, the Ranking Minority Member, also made opening remarks on the purpose of the hearing.

The witnesses were recognized for their prepared testimony and following their presentations were questioned by the Members of the Subcommittee. A special introduction of Mr. Smith was made by Mr. Wampler. In addition, Mr. Wampler submitted for the record a briefing paper prepared by the Congressional Research Service on the Extension Service, which he asked to have printed in the appendix of the hearings. There was no objection to his request.

At 1:00 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to hear additional witnesses discuss the programs of the Extension Service.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 9, 1982

(Sub) Committee: Tobacco and Peanut

Meeting: Public Field Hearing

Subject: Tobacco Price Support Program

Bill Nos.

The Tobacco and Peanut (Sub) Committee met in Open Session at 10:00 am o'clock in Room Benton Convention Center in Winston-Salem, N.C.

The following Members were present:

Mr. Rose, Chairman
Mr. Whitley
Mr. Napier
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Steve Neal - also present
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Joan Teague
Carol Dubard

Witnesses:

Louie A. Bodenhamer - farmer
Thomas (Eddie) Johnson, Jr.- Surry Tobacco Producers Assoc.
James D. (Pete) Carter - farmer
W. H. Knight - farmer
C. Dale Hartman - Stokes County Tobacco Growers Assoc.
DAvid T. Haynes - farmer
Jack Waddell - allot. holder
Richard B. Whitaker- farmer
Donald G. McCormick - Senior Citizen
Edgar S. Welborn Jr. - farmer
Allen E. Pinnix - farmer
Geraldine C. Baity - tobacco farmer
James R. Jessup - retired farmer
J.W. York - USDA
Hassell C. Brown, Jr. - Yadkin County Growers Assoc.
Jack McCurdy - farmer
Jerry O. Love - farmer
Dallox O. Johnson - retired farmer (D.O. Johnson)
Dennis N. Thompson - County Comm. of Surry County
Lloyd M. Massey - N.C. State Grange
Fred G. Bond - Flue-Cured Stab. Corp.
Frank Bryant - Flue-Cured Tobacco Coop. Stab.
William E. Little - N.C. Farm Bureau
Sid Mabe - farmer
Eugene J. Hopper Jr., - farmer
Thomas L. Canoy - farmer
Paul B. Nelson - farmer
Kathy Baity - farmer
Gale B. Redding - farmer
Bob Hobson - farmer
J.L. Haynes - farmer
George W. Phillips - farmer

Statements Filed:

March 9, 1982
Tobacco and Peanut Subcommittee
Public Field Hearings
Tobacco Program

Chairman Charlie Rose called the meeting to order at 10:00 am for the purpose of hearing testimony and questioning the witnesses listed on page 2 of these minutes.

A brief recess was taken at 12:00 - 1:00 pm for lunch and the hearing began again at 1:00.

The Chairman announced the record would remain open for letters from farmers and organizations who were unable to attend the hearing.

The meeting was adjourned at 3:00 pm, to reconvene subject to the call of the chair.

Joan Teague

Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 9, 1982

(Sub) Committee : Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing -- p.m.

Subject: Oversight of USDA Extension Service, Science and Education Administration

Bill Nos.

The Department Operations, Research, and Foreign Agriculture (Sub) Committee met in open Session at 2:05 o'clock, in Room 1302

The following Members were present:

Mr. Brown, Chrm.
Mr. Roberts (Kans.)
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Staff present:

Charles Benbrook, Subcommittee Staff Consultant
Gerald R. Jorgensen, Minority Consultant
Tom Adams, Staff Consultant
Anita Brown, Staff Assistant
Glenda Temple, Staff Assistant
William A. Stiles, Legislative Assistant to Mr. Brown
Ron Baker, Consultant to Subcommittee

Witnesses:

1. Panel: Extension Clientele

   Mr. John M. Thomas, Attorney of Binghamton, New York, in behalf of Cooperative Extension Lay Leaders

   Mrs. Lois E. Stuenkel, farm wife and member, National Extension Advisory Council, Cooperative Extension Service, Corder, Missouri

   Mr. L. F. Amburn, Jr., Chairman, North Carolina Agricultural Extension Advisory Council; Secretary, National Extension Advisory Council, Edenton, North Carolina

   Mr. John C. Haas, farmer, Chairman, National Extension Advisory Council, Larned, Kansas

   Patrick F.E. Temple-West, President, Executive Committee of Philadelphia in behalf of the Cooperative Extension Service, Philadelphia, Pennsylvania

2. Panel: Extension User Groups

   Sara E. Polenick, NW field representative, Meford, Oregon, representing the Defenders of Wildlife, Washington, D.C.

   Randal Lee O'Toole, forest economist, representing the Cascade Holistic Economic Consultants, Eugene, Oregon

   George E. Carr, chief attorney, Migrant Program, Legal Aid Bureau, Inc., Salisbury, Maryland

3. Panel: Extension Cooperators

   Hon. Phillip Alambi, New Jersey Secretary of Agriculture, representing the National Association of State Departments of Agriculture, Trenton, New Jersey

   Ms. Grace Ellen Rice, Assistant Director, National Affairs Division, American Farm Bureau Federation, Washington, D.C.

   Dr. Kinsey B. Green, Executive Director, American Home Economics Association, Washington, D.C.

Statements Filed:

None

Tuesday, March 9, 1982
Department Operations, Research, and Foreign
  Agriculture Subcommittee
Public Hearing -- p.m.
Oversight of USDA Extension Service, Science
  and Education Administration

Chairman Brown called the meeting to order to continue receiving testimony on the programs and projects of the USDA Extension Service. The witnesses listed on page 2 of these minutes were recognized for their statements and following presentation of their remarks were questioned by the Members of the Subcommittee.

Mrs. Stuenkel, Mr. Amburn, and Mr. O'Toole submitted supporting documents for the record.

At 4:15 p.m. the meeting was adjourned to reconvene at 10:00 a.m. on Wednesday, March 10, to receive additional testimony on the above-captioned hearing.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 9, 1982 - P.M.

(~~Sub~~) Committee: Full

Meeting: Public Hearing

Subject: To discuss the general agricultural export and trade situation

Bill Nos. None

The Full (~~Sub~~) Committee

met in Open Session at 2:10 pm o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. de la Garza
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Dorgan
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Napier
Mr. Skeen
Mr. Gunderson
Mr. Evans
Mr.
Mr.
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Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Steve McCoy, Staff Economist
Gene Moos, Subcommittee Staff Director
Jim Tippett, Staff Assistant
Linda Miller, Minority Consultant
John Bailey, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Honorable Reagan V. Brown, Commissioner of Agriculture, State of Texas, on behalf of the National Association of State Departments of Agriculture
2. Mr. Joseph A. Kinney, Staff Director, Committee on Agriculture of National Governors' Association, for Honorable Charles Thone, Nebraska, Chairman of the Committee
3. Mr. Julian Heron, Heron, Haggart, Ford, Burchette & Ruckert, Washington, D.C.

Statements Filed:

None

Tuesday, March 9, 1982 P.M.
Full Committee
Public Hearing
To discuss the general agricultural export and trade situation

Chairman de la Garza called the meeting to order and welcomed Commissioner Brown who gave a prepared statement on behalf of the National Association of State Departments of Agriculture. Mr. Brown made some remarks from his position as Texas Commissioner of Agriculture and responded to questions from Members of the Committee as appearing in the record.

The remaining two witnesses presented their statements and also responded to questions.

Mr. Heron was introduced by Congressman Coelho.

The Chairman announced these hearings would be continued at a time to be announced, and that the Committee would invite the the Director of the Office of Management and Budget and farm groups to appear.

The meeting was adjourned at 3:05 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 10, 1982

(Sub) Committee: Forests, Family Farms, and Energy

Meeting: Public Hearing

Subject: National Forest Management Act regulations

Bill Nos. None

The Forests, Family Farms, and Energy (Sub) Committee

met in Open Session at 10:00 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Weaver
Mr. Daschle
Mr. Dorgan
Mr. Albosta
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Marlenee
Mr. Hansen
Mr. Skeen
Mr. Morrison
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Loweree, Associate Counsel
John Hogan, Minority Counsel
Greg Skillman, Subc. Staff Director
Richard Fritz, Minority Consultant
Bernie Brenner, Press Secretary
Chris Abram, Staff Assistant

Peggy Pecore, Clerk

Witnesses:

1. Mr. Douglas MacCleery, Deputy Assistant Secretary for Natural Resources and the Environment, U.S. Department of Agriculture
   Accompanied by: Mr. Rex Hartgrave, Director, Land Management Planning, Forest Service

2. Mr. Randall O'Toole, Cascade Holistic Economic Consultants, Eugene, Oregon

3. Mr. John Hall, Vice President for Resources, National Forest Products Association, Washington, D.C.,
   Accompanied by: Mr. James Riley

4. Panel:

   Mr. Brock Evans, National Audubon Society, Washington, D.C.

   Ms. Julie McDonald, Sierra Club Legal Defense Fund, San Francisco, California

   Mr. Tom Barlow, Natural Resources Defense Fund, Washington, D.C.

   Mr. Peter Kirby, The Wilderness Society, Washington, D.C.

   Mr. Tom Lustig, National Wildlife Federation, Washington, D.C.

5. Panel:

   Mr. John Hooper, Sierra Club, San Francisco, California

   Mr. Larry Mehlhaff, Colorado Open Space Council, Denver, Colorado

   Ms. Liz Merrill, Idaho Conservation League, Boise, Idaho

Statements Filed:

Mr. Barlow

Wednesday, March 10, 1982
Subcommittee on Forests, Family Farms, and Energy
Public Hearing
To consider National Forest Management Act regulations

Chairman Weaver called the meeting to order and made remarks about the purpose of the hearing. The proposed National Forest Management Act regulations were, without objection, made a part of the record.

The witnesses presented their testimony and responded to questions in the ordered listed on page two.

The Subcommittee adjourned at 2:08 p.m., to reconvene at 10:00 a.m. on Thursday, March 11, 1982, to hold a joint hearing with the Subcommittee on Public Lands of the Committee on the Interior on legislation to establish the Mount Saint Helens National Volcanic Area.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 10, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing -- a.m.

Subject: Oversight of USDA Extension Service, Science and Education Administration

Bill Nos.

The Department Operations, Research, and Foreign Agriculture (Sub) Committee met in open Session at 10:05 o'clock, in Room 1301

The following Members were present:

Mr. Brown, Chrm.
Mr. Richmond
Mr. Wampler
Mr. Evans
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
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Mr.
Mr.

Staff present:

Bob Lowerre, Associate Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subcommittee Staff Consultant
Anita Brown, Staff Assistant
Glenda Temple, Staff Assistant
Tom Adams, Staff Consultant
Gerald R. Jorgensen, Minority Consultant
William A. Stiles, Legislative Assistant to Mr. Brown
Ron Baker, Consultant to Subcommittee

Witnesses:

1. Mr. W. Fred Woods, Deputy Administrator, Program Development, Evaluation, and Management Systems, Extension Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Danilo L. Domingo, Chief, Cooperative and Special Programs, Budget Division, USDA

2. Ms. Mary Lou Taylor, Washington Representative, Gardens for All: National Association for Gardening, Silver Spring, Maryland

3. Ms. Libby J. Goldstein, Extension Agent Coordinator, Pennsylvania State University Cooperative Extension Service, Philadelphia, Pennsylvania

4. Dr. Paul D. Warner, Associate Professor of Sociology, University of of Kentucky, Lexington, Kentucky, in behalf of the Green Thumb Project and National Extension Users Survey.

5. Ms. Marge Griffin of Vale, Oregon, President, National Extension Homemakers Council, Inc.

   and

   Ms. Billie H. McCraw of Raymondville, Texas, President, Texas Extension Homemakers Council

Statements Filed:

1. Mrs. L.R. Anderson, President Oklahoma Extension Homemakers Council

Wednesday, March 10, 1982
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing -- a.m.
Oversight of USDA Extension Service,
Science and Education Administration

Chairman Brown called the meeting to order for the purpose of continuing to look at the programs administered by the USDA Extension Service.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the subject. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 12:15 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to hear additional witnesses on the above-captioned subject.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 10, 1982

(Sub) Committee : Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing -- p.m.

Subject: Oversight of USDA Extension Service, Science and Education Administration

Bill Nos.

The Department Operations, Research, and Foreign Agriculture (Sub) Committee met in open Session at 2:10 o'clock, in Room 1301.

The following Members were present:

Mr. Brown, Chrm.
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.

Staff present:

Charles Benbrook, Subcommittee Staff Consultant
Gerald R. Jorgensen, Minority Consultant
Tom Adams, Staff Consultant
Anita Brown, Staff Assistant
Glenda Temple, Staff Assistant
William A. Stiles, Legislative Assistant to Mr. Brown
Ron Baker, Consultant to Subcommittee

Witnesses:

1. Dr. Patrick Madden, Professor of Agricultural Economics, Rodale Research Center and Pennsylvania State University, University Park, Pennsylvania

and

Dr. Richard L. Barrow, Professor and Natural Resource Economist, University of Wisconsin--Extension, Madison, Wisconsin

2. Dr. Robert C. Kramer, Program Director in Agriculture, W. K. Kellogg Foundation, Battle Creek, Michigan

3. Mr. Lisle C. Carter, Jr., President, University of the District of Columbia, Washington, D.C. in behalf of CES Programs

and

Dr. Thornell K. Page, Director, Cooperative Extension Service, University of District of Columbia, Washington, D.C.

Statements Filed:

None

Wednesday, March 10, 1982
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing -- p.m.
Oversight of USDA Extension Service, Science
and Education Administration

Chairman Brown called the meeting to order and recognized the witnesses listed on page 2 of these minutes for their prepared testimony on the programs of the USDA Extension Service. Following presentation of their statements, the witnesses were questioned by the Members of the Subcommittee.

Chairman Brown advised that the hearing record would be left open for two weeks in order to receive additional testimony. He also stated that field hearings may be held to see first-hand the implementation of the extension programs.

At 4:50 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, March 11, 1982

(Sub) Committees Forests, Family Farms, and Energy, and Public Lands and National Parks of House Interior and Insular Affairs Committee

Meeting: Joint Public Hearing

Subject: Mount St. Helens National Volcanic Area, Washington

Bill Nos. H.R. 5281, H.R. 5773

The Joint (Sub) Committees

met in Open Session at 10:00 am o'clock, in Room 1302 LHOB

The following Members were present:

FFFE	PLNP	ALSO PRESENT:
Mr. Weaver, Chairman	Mr. Seiberling, Chrm.	Mr. Bonker
Mr. Daschle	Mr. Weaver	Mr.
Mr. Dorgan	Mr. Vento	Mr.
Mr. Marlenee	Mr. Williams, Mont	Mr.
Mr. Hansen, Idaho	Mr. Clausen	Mr.
Mr. Skeen	Mr. Marlenee	Mr.
Mr. Morrison	Mr. Hansen, Utah	Mr.
Mr. Chappie	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

FFFE

Bob Lowerre, Associate Counsel
Greg Skillman, Subc. Staff Director
Richard Fritz, Minority Consultant
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

PLNP

Dale Crane, Consultant
Clay Peters, Minority Consultant
Barbara Phillips, Secretary

Witnesses:

1. Honorable Don Bonker, Member of Congress from Washington
2. Honorable Sid Morrison, Member of Congress from Washington
3. Panel:

   Mr. Douglas Leisz, Associate Chief, U.S. Forest Service, U.S. Department of Agriculture,
   acc. by: Mr. Duane Tucker, Deputy Superintendent, Gifford Pinchot National Forest, Washington

   Mr. Doyle G. Frederick, Associate Director, U.S. Geological Survey, U.S. Department of the Interior,
   acc. by: Mr. Roy Bailey, Chief Consultant, Volcanic Activites, U.S. Geological Survey

4. Honorable Brian Boyle, Commissioner of Public Lands, Washington State Department of Natural Resources, Olympia, Washington, speaking for Honorable John Spellman, Governor of the State of Washington
5. Panel:

   Mr. Ted Natt, editor, Longview Dailey News, Longview, Washington

   Mr. Tom Manning, Executive Director, Longview Chamber of Commerce, Longview, Washington

Statements Filed:

U.S. Geological Survey

Mr. Ted Natt

Thursday, March 11, 1982
Subcommittees on Forests, Family
 Farms, and Energy and Public Lands
 and National Parks of the Committee
 on Interior and Insular Affairs
Public Hearing
Mount St. Helens National Volcanic
 Area, Washington
H.R. 5281, H.R. 5773

Chairman Weaver called the meeting to order and made a brief statement about the purpose of the hearing. Chairman Seiberling also made remarks.

The witnesses were recognized in the order listed on page two of these minutes for their prepared statements, after which they responded to questions from Members of the Sucommittees as appearing in the record.

The meeting was adjourned at 1:06 p.m., to reconvene at 2:00 p.m. this date to hear additional witnesses on this subject.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, March 11, 1982

(Sub) Committee: Cotton, Rice, and Sugar

Meeting: Public Hearing

Subject: Review South Korea's commitment to buy U.S. rice under the 1980 U.S.-Japan Rice Agreement

Bill Nos.

The Cotton, Rice, and Sugar **(Sub) Committee**

met in open **Session at** 10:05 **o'clock, in Room** 1301

The following Members were present:		Members Also Present:
Mr. Bowen, Chrm.	**Mr.**	**Mr.** Alexander
Mr. Huckaby	**Mr.**	**Mr.** Breaux
Mr. Coelho	**Mr.**	**Mr.**
Mr. Stenholm	**Mr.**	**Mr.**
Mr. Hatcher	**Mr.**	**Mr.**
Mr. Thomas	**Mr.**	**Mr.**
Mr. Stangeland	**Mr.**	**Mr.**
Mr. Emerson	**Mr.**	**Mr.**
Mr. Napier	**Mr.**	**Mr.**
Mr. Morrison	**Mr.**	**Mr.**
Mr. Gunderson	**Mr.**	**Mr.**
Mr. Chappie	**Mr.**	**Mr.**
Mr.	**Mr.**	**Mr.**
Mr.	**Mr.**	**Mr.**
Mr.	**Mr.**	
Mr.	**Mr.**	

Staff present:

Bob Bor, Chief Counsel
Bob Lowerre, Associate Counsel
Cris Aldrete, Special Counsel
Brenda Hatton, Consultant
Linda Miller, Minority Consultant
Glenda Temple, Staff Assistant
Bernie Brenner, Press Assistant
Gene Moos, Subcommittee Staff Director

Witnesses:

1. Hon. Bill Alexander, Member of Congress from Arkansas

2. Hon. John Breaux, Member of Congress fromLouisiana

   Acc. by: Mr. John Broussard, Legislative Assistant

3. Mr. Richard A. Smith, Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Alan Tracy, General Sales Manager
   Mr. Tom Slayton, Grain and Feed Division, FAS
   Mr. George Schaefer, Agricultural Marketing Specialist, ASCS

4. Mr. J. Steven Gabbert, Vice President, Rice Millers' Association, Arlington, Virginia

5. Mr. Joseph L. Alioto, Attorney, in behalf of Rice Growers Association of California, Farmers' Rice Cooperative, and Connell Rice and Sugar, of San Francisco, California

Statements Filed:

None

Thursday, March 11, 1982
Cotton, Rice, and Sugar Subcommittee
Public Hearing
Review South Korea's commitment to
buy U.S. rice under the 1980
U.S.-Japan Rice Agreement

Chairman Bowen called the meeting to order to review South Korea's commitment to buy U.S. rice under the 1980 U.S.-Japan Rice Agreement. He made a brief statement on the need to look into the problems regarding the completion of Korea's commitment to buy 500,000 tons of 1981 rice. Mr. Thomas, the Ranking Minority Member, also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the subject and following presentation of their statements were questioned by the Members of the Subcommittee. Congressmen Alexander and Breaux were invited to sit with the Subcommittee and participate in the questioning of the Departmental and public witnesses.

At 1:00 p.m. the meeting was adjourned to reconvene at 2:00 p.m. on Tuesday, March 16, to continue looking into the problems concerning South Korea's purchase of U.S. rice under the 1980 U.S.-Japan Rice Agreement.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, March 11, 1982

(Sub) Committees Forests, Family Farms, and Energy, and Public Lands and National Parks of House Interior and Insular Affairs Committee

Meeting: Joint public hearing

Subject: Mount St. Helens National Volcanic Area, Washington

Bill Nos. H.R. 5281, H.R. 5773

The Joint (Sub) Committees

met in Open Session at 2:05 pm o'clock, in Room 1302 LHOB

The following Members were present:

FFFE	PLNP	
Mr. Weaver, Chairman	Mr. Seiberling, Chrm.	Mr.
Mr. Marlenee	Mr. Weaver	Mr.
Mr. Skeen	Mr. Marlenee	Mr.
Mr. Morrison	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

FFFE	PLNP
Greg Skillman, Subc. Staff Director	Dale Crane, Consultant
Richard Fritz, Minority Consultant	Clay Peters, Minority Consultant
Peggy Pecore, Clerk	Barbara Phillips, Secretary

Witnesses:

1. Dr. Paul Colinvaux, Department of Zoology, Ohio State University

2. Panel:

   Dr. Estella B. Leopold, Director, Quarternary Research Center, University of Washington, Seattle, Washington
   Dr. Craig Weaver, geophysicist, University of Washington, Seattle, Washington
   Dr. Steve Malone, geophysicist, University of Washington, Seattle, Washington
   Dr. Virginia Adams, botanist/forester, University of Washington, Seattle, Washington

3. Panel:

   Mr. William Halliday, University of Washington, Seattle, Washington; National Speleological Society; Chairman, Mount St. Helens Conservation Association; for Western Speleological Survey

   Dr. Stephen Harris, Professor, California State Unversity, Sacramento, California, and author of Fire and Ice

4. Panel:

   Mr. John Wilkinson, Group Vice President for Western Operations, Weyerhauser Company, Tacoma, Washington
   Mr. Nick Kirkmire, Vice President for Timber Resources, Burlington Northern Railway, Seattle, Washington,
   acc. by: Mr. Stanley Humann, Director, Land Management, Burlington Northern Timberlands, Inc., Seattle, Washington

5. Panel:

   Mr. Charles Raines, Sierra Club, Seattle, Washington
   Mr. Ken Gersten, Washington Wilderness Coalition, Seattle, Washington
   Ms. Susan Saul, Mount St. Helens Protective Association, Longview, Washington
   Ms. Lu Moore, Mount St. Helens Protective Association, Castle Rock, Washington

6. Panel:

   Mr. Brock Evans, National Audubon Society, Washington, D.C.
   Mr. Al Sample, The Wilderness Society, Washington, D.C.

Statements Filed:

1. Dr. Leopold
2. Dr. Weaver
3. Dr. Adams
4. Mr. Halliday
5. Mr. Raines
6. Mr. Bill Lightkep, United Four-Wheel Drive Association, Washington, D.C.

Thursday, March 11, 1982 P.M.
Subcommittees on Forests, Family
Farms, and Energy and Public Lands
and National Parks of the Committee
on Interior and Insular Affairs
Public Hearing
Mount St. Helens National Volcanic
Area, Washington
H.R. 5281, H.R. 5773

Chairman Weaver called the meeting to order to hear additional witnesses on legislation which would create a Mount St. Helens Natioal Volcanic Area in the State of Washington.

The witnesses were recognized in the order listed on page two of these minutes for their prepared statements, after which they responded to questions from Members of the Subcommittees as appearing in the record.

Without objection, Mr. Bonker was recognized to read a letter from Washington State Governor Spellman into the record.

The meeting was adjourned at 5:55 p.m., to reconvene subject to the call of the chair.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 16, 1982

~~(Sub)~~ Committee: Full

Meeting: Public Hearing

Subject: Review of problems arising in administration of the reduced acreage program for the 1982 crops

Bill Nos. None

The Full ~~(Sub)~~ Committee

met in Open Session at 9:35 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Bedell
Mr. English
Mr. Huckaby
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.

Mr. Wampler
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Gene Moos, Subc. Staff Director
John Bailey, Minority Consultant
Bob Cashdollar, Subc. Staff Director
Richard Fritz, Minority Consultant
Floyd Gaiber, Minority Consultant
Bernie Brenner, Press Secretary
John Carr, Staff Assistant
Peggy Pecore, Clerk
Steve Adams, Staff Assistant

Witnesses:

1. Honorable Richard E. Lyng, Deputy Secretary of Agriculture,
   accompanied by: Mr. Everett Rank, Administration, Farmers
   Home Administration, USDA

2. Mr. Charles Wofford, Executive Director of Cotton and Grain Producers of the Lower Rio Grande Valley, Inc., Raymondville, Texas

3. Mr. Homer Easterwood, Easterwood Farms, Sinton, Texas

4. Mr. David Oefinger, Executive Director, South Texas Cotton and Grain Association, Victoria, Texas

5. Mr. James McCarthy, Chairman of the Board, Valley Production Credit Association, Harlingen, Texas,
   accompanied by: Mr. Ray Gray, member, Cameron County ASCS
   Committee, cotton and grain farmer, Harlingen,
   Texas

   Mr. Billy Joe Simpson, farmer, Rio Hondo, Texas

   Mr. Bill Turberville, farmer, member of production credit board, Edcouth, Texas

Statements Filed:

NONE

Tuesday, March 16, 1982
Full Committee
Public Hearing
Review of problems arising in
administration of the reduced
acreage program for the 1982 crops

Chairman de la Garza called the meeting to order and made a brief statement about the purpose of the hearing.

Mr. Lyng read his prepared statement and he and Mr. Rank responded to questions from Members of the Committee.

In the interest of time the Chairman invited Mr. Lyng and his associates to remain at the meeting to answer additional questions after the other witnesses had been heard.

The remaining witnesses gave their prepared statements and were joined at the table by Mr. Lyng, after which they responded to questions as appearing in the record.

Mr. Roberts, Kansas, submitted three questions to Mr. Lyng for written responses.

Mr. Volkmer chaired the meeting at 11:55, and Mr. Stenholm chaired at 11:57 until the Committee adjourned at 11:59 a.m. to meet again at the call of the chair.

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 16, 1982

(Sub) Committee: Cotton, Rice, and Sugar

Meeting: Public Hearing

Subject: To review South Korea's commitment to buy U.S. rice under the 1980 U.S.-Japan Rice Agreement

Bill Nos. None

The Cotton, Rice, and Sugar (Sub) Committee

met in Open Session at 2:10 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Bowen
Mr. Huckaby
Mr. Coelho
Mr. Stenholm
Mr. de la Garza, ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Thomas
Mr. Emerson
Mr. Napier
Mr. Morrison
Mr. Gunderson
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Fazio
Mr. Alexander
Mr. Breaux
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Brenda Hatton, Subcommittee Staff Director
Linda Miller, Minority Consultant
Gene Moos, Subcommittee Staff Director
Steve Adams, Staff Assistant
Bernie Brenner, Press Secretary
John Carr, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

1. Honorable Vic Fazio, Member of Congress from California
2. Mr. Anthony C. Albrecht, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs, Department of State, accompanied by: Mr. Robert Richmond, Economic Officer
3. Mr. C. Michael Buxton, attorney, Vinson & Elkins, Washington, D.C., for Pacific International Rice Mills, Inc.

Department of Agriculture representatives present to respond to questions:

Mr. Richard Smith, Administrator, Foreign Agricultural Service
accompanied by: Mr. Tom Slayton, Rice Analyst, FAS

Mr. George H. Schaefer, Acting Leader, Food Grains Division, Agricultural Stabilization and Conservation Service

Statements Filed:

Letter from Mr. Howard R. Plank, rice grower from California

Tuesday, March 16, 1982
Subcommittee on Cotton, Rice, and Sugar
Public Hearing
To review South Korea's commitment to buy U.S. rice under the 1980 U.S.-Japan Rice Agreement

Chairman Bowen called the meeting to order and made brief remarks about this being a continuation of the Subcommittee's review of South Korea's commitment to buy U.S. rice under the 1980 U.S.-Japan Rice Agreement.

Mr. Fazio summarized his prepared statement after which he joined Members of the Subcommittee at the rostrum. Mr. Alexander and Mr. Breaux, both of whom had testified at the March 11 hearing, also joined the Members and participated in questioning the witnesses.

Mr. Albrecht read his statement after which the Chairman invited Mr. Smith, Foreign Agricultural Service, Department of Agriculture, and his associates to come to the table. They were questioned en bloc by Members of the Subcommittee and visiting Members.

Mr. Buxton summarized his prepared statement and responded to questions as appearing in the record.

The Chairman announced the record would remain open for any materials the witnesses would like to file in support of their testimony, and the Subcommittee would continue to observe this situation.

The Subcommittee adjourned at 6:25 p.m., to reconvene at the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 17, 1982

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing and Business Meeting

Subject: Amend Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection

Bill Nos. H.R. 3863

The Livestock, Dairy, and Poultry **(Sub) Committee**

met in Open **Session at** 9:20 am **o'clock, in Room** 1301 LHOB

The following Members were present:

Mr. Volkmer
Mr. Jones, Tenn
Mr. Stenholm
Mr. Hatcher
Mr. Hagedorn
Mr. Hansen
Mr. Skeen
Mr. Gunderson
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Marlenee
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Chris Aldrete, Special Counsel
George Palmer, Subc. Staff Director
Floyd Gaibler, Minority Consultant
Richard Fritz, Minority Consultant
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

1. Honorable Ron Marlenee, Member of Congress from Montana
2. Mr. L. L. Gast, Associate Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture
3. Mr. Lew Walts, Executive Vice President, National Turkey Federation, Reston, Virginia
4. Mr. Stuart E. Proctor, Jr., American Farm Bureau Federation, Washington, D.C.
5. Mr. Charles Nickerson, independent turkey producer from Holliston, Massachusetts

Statements Filed:

Honorable Tom Hagedorn, Member of Congress from Minnesota

U.S. GOVERNMENT PRINTING OFFICE 81—72783-1

Wednesday, March 17, 1982
Subcommittee on Livestock, Dairy, and Poultry
Public Hearing and Open Business Meeting
Amend Poultry Products Inspection Act
H.R. 3863

In the absence of Chairman Harkin, who had been detained, Mr. Volkmer called the meeting to order and read a statement by Mr. Harkin about the purpose of the hearing.

Mr. Marlenee, author of the legislation, was recognized to summarize his statement, after which he was joined at the table by the other witnesses listed on page two.

Each witness summarized his statement after which they were questioned en bloc by Members of the Subcommittee.

The hearing was adjourned at 9:40 a.m. to go into an open business session.

OPEN BUSINESS MEETING

Action taken:

--by a voice vote agreed to Hagedorn motion to order H.R. 3863 reported to the full Committee in the presence of a quorum

Acting Chairman Volkmer called the meeting to order at 9:42 a.m and recognized Mr. Hagedorn who moved to report H.R. 3863 to the full Committee with the recommendation that it do pass.

Mr. Volkmer asked for a voice vote on the motion and the ayes prevailed. Thus, the bill was ordered reported to the full Committee in the presence of a quorum.

Staff was given the authority to make the necessary technical and clarifying corrections to the legislation.

The Subcommittee adjourned at 9:43 a.m., to meet again at the call of the chair.

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 22, 1982

(Sub) Committee: Livestock, Dairy and Poultry

Meeting: Public Field Hearing

Subject: Current farm situation

Bill Nos. None

The Livestock, Dairy and Poultry (Sub) Committee

met in open Session at 9:00 a.m. o'clock, in Room in Mankato, Minn.

The following Members were present:

Mr. Stenholm
Mr. Hagedorn
Mr. Stangeland
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Wendy Jahnz Lambrechts, Agriculture Assistant to Congressman Hagedorn

Witnesses:

1. Mr. Charlie Born, Pres., Farmer Corn Products, Inc. St. Paul, MN.
2. Mr. Bill Bassett,City Mgr,City of Mankato, Mankato, MN.
3. Mr. Loren Smith, Waterville, MN.
4. Mr. Clint Haroldson, Renville, MN.
5. Mr. Delbert Hodgkins, Area Vo-Ag Prog. Coordinator, Mankato AVTI, Mankato,MN.
6. Mr. Mark Seetin, Minnesota Commissioner of Agriculture
7. Mr. Rob Meyer, St. Peter, MN.
8. Mr. Dave Livingston, Dodge Center, MN.
9. Mr. Arnie Gabrielson, Austin, MN.
10. Mr. Jasper Shaver, LeCenter, MN.
11. Mr. Marlyn Buss, Lake Crystal, MN.
12. Mr. Gilbert Schwartz, Young America, MN.
13. Mr. Lewis Olson, Blue Earth, MN.
14. Mr. Phil Braeger, Braeger International, Fairmont, MN.
15. Mrs.Janet Wieman, Arlington, MN.
16. Mr. Lawrence Nosbush, New Ulm, MN.
17. Mr. Marion Fogarty, Belle Plains, MN.
18. Doug Fitzke, Nicollet, MN.
19. Mr. Jim Sullivan, Dir of Mkt., Feed Div, Hubbard Milling Co., Mankota, MN.
20. Mr. Leander Wagner, Elko, MN.
21. Mr. Ralph Stadick, New Ulm, MN.
22. Mr. Merlyn Lokensgard, Pres, MN. Farm Bur., St. Peter, MN.
23. Mary and Kenneth Wetzel, Waterville, MN.
24. Mr. Chuck Spaeth, Sleepy Eye, MN.
25. Mr. Alvin Rostberg, Henderson, MN.
26. Mr. Gene Roden, The Wagon Wheel, Austin, MN.
27. Mr. Jim Langman, Starbuck, MN.
28. Mrs. Donald (Beverly) Struxness, Milan, MN.
29. Mr. Loren Cumming, Mapleton, MN.
30. Leonale Anderson, St. Peter, MN.
31. Mr. Randy Thalmann, Plato, MN.
32. Mr. Don Gregg, AMPI, New Ulm, MN.
33. Mr. Cliff Schumacher, Sleepy Eye, MN.
34. Mr. Kurt Nelson, Blue Earth State Bank, Blue Earth, MN.
35. John and Ron Sipple, Albert Lea, MN.
36. Mr. Dale Madison, First American State Bank, Brownsdale, MN.
37. Mr. Harold Knutson, First Northwestern National Bank, Albert Lea, MN.
38. Mr. Norm Fredin, Adult Vo-Ag Instructor, District 241, Albert Lea, MN.
39. Mr. Bill Goette, ASCS County Chairman, Hartland, MN.
40. Mr. Peter Nelson, Lindstrom, MN.

Statements Filed:

U.S. GOVERNMENT PRINTING OFFICE: [illegible]

Witnesses continued

41. Mr. Allen Sanow, Minneota, MN.
42. Mr. Paul Yates, Winsted, MN.
43. Mr. John Campe, New Ulm, MN.
44. Mr. Larry Larson, Sargeant, MN.
45. Mr. Ralph Prescher, Pres., Minnesota Soybean Association
46. Ms. Beulah Milbarth, Austin Public Schools, Austin, MN.
47. Mr. Louis Conrad, Food Service, Mankato State University, Mankato,MN
48. Mr. Richard Clark, Elysian, MN.
49. Mr. Glen Zollner, Winthrop, MN.
50. Mr. Donald Chapdelaine, Farmers Union Coop & MN. Asso. of Cooperativ

Monday, March 22, 1982
Livestock, Dairy and Poultry
Subcommittee
Field Hearing, Mankato, Minnesota
To study the current farm situation

Mr. Stenholm, acting Chairman of the Subcommittee, called the meeting to order.

After opening statements by the Members in attendance, testimony was heard from the witnesses in the order listed.

The hearing adjourned at 3:15 p.m.

George Palmer
George Palmer

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 23, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: Credit policies of the Farmers Home Administration, USDA

Bill Nos. None

The Conservation, Credit, and Rural Development (Sub) Committee

met in Open Session at 9:45 am [illegible] in Room 1302 LHOB

The following Members were present:

Mr. Jones, Tenn.
Mr. Bedell
Mr. Daschle
Mr. Dorgan
Mr. Bowen
Mr. Panetta
Mr. Albosta
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts, Kans.
Mr. Napier
Mr. Skeen
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Marlenee
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Lowerre, Associate Counsel
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant

Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

Mr. Charles Shuman, Administrator, Farmers Home Administration,
Department of Agriculture
accompanied by: Mr. Jim Anderson, Budget Officer, FmHA

Statements Filed:

U.S. GOVERNMENT PRINTING OFFICE [illegible]

Tuesday, March 23, 1982
Subcommittee on Conservation, Credit,
and Rural Development
Public Hearing
Credit policies of the Farmers Home
Administration, USDA

Chairman Jones called the meeting to order and made brief remarks about this being the last of a series of hearings on the subject of credit conditions, and he discussed a bill he and Mr. Jeffords had introduced (H.R. 5831) to reauthorize loan programs of the Farmers Home Administration. Mr. Jeffords also made opening remarks.

Mr. Shuman made remarks after which he responded to a series of questions from the Members as appearing in the record.

Mr. Jones introduced a group of National Farm Bureau members from Illinois, and they were welcomed by the Subcommittee.

The meeting adjourned at 12:09 p.m., to reconvene at 2:00 p.m. this date to mark up H.R. 5831.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 23, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Business

Subject: To set authorized ceilings for FmHA farm and rural development credit programs

Bill Nos. H.R. 5831

The Conservation, Credit, and Rural Development **(Sub) Committee**

met in Open **Session at** 2:15 pm **o'clock, in Room** 1302 LHOB

The following Members were present:

Mr. Jones, Tenn.
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Bowen
Mr. Harkin
Mr. English
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts, Kans.
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Lowerre, associate Counsel
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant

Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

In attendance to respond to questions from Members of the Subcommittee:

Mr. Charles Shuman, Administrator, Farmers Home Administration, Department of Agriculture, Washington, D.C.

Statements Filed:

Letter to Chairman Jones from Governor, Farm Credit Administration, describing the nationwide credit monitoring procedure the FCA has instituted

Tuesday, March 23, 1982
Subcommittee on Conservation,
Credit, and Rural Development
Business Meeting
To set authorized ceilings for
FmHA farm and rural development
credit programs
H.R. 5831

Action taken:

--by a voice vote, Bedell amendment to Daschle amendment agreed to

--by a division vote of 5 yeas-6 nays, the Coleman amendment to the Daschle amendment not agreed to

--by a rollcall vote of 13 yeas-5 nays, the Daschle amendment relative to deferring payment of principal and interest of loans, as amended, agreed to

--by a rollcall vote of 17 yeas-1 nay, the Bedell amendment relative to permitting a borrower who has adequate equity to protect his loan to use proceeds from the sale of property securing the loan to make scheduled payment on the loan agreed to

--by a rollcall vote of 18 yeas-0 nays, the Bedell amendment relative to interest rates on consolidated, rescheduled, or reamortized loans agreed to

--by a division vote of 12 yeas-0 nays, the Bowen amendment to the Bedell amendment relative to the form of the minimum equity necessary to secure a business and industrial loan agreed to

--by a division vote of 11 yeas-0 nays, the Bedell amendment relative to the per centum a borrower of a business and industrial loan must invest in the enterprise, as amended, agreed to

Chairman Jones called the meeting to order for the purpose of marking up H.R. 5831. A copy of the bill and a summary together with the Administration's proposal and an explanation of the differences are attached. Counsel Lowerre was recognized to explain the bill.

Mr. Jones announced the bill was considered as having been read and was open for amendment at any point.

Mr. Daschle was recognized to offer as an amendment on behalf of himself and Mr. Dorgan, the language of H.R. 5666 (attached), relative to deferring payment of principal and interest of loans. A general discussion followed. Mr. Bedell was recognized to offer an amendment as follows:

> on page 2, line 15, after the word "borrower", change the period to a comma, and add: "and it appears that the borrower has reasonable chance of future payment of the loan if such deferral is given"

Tuesday, March 23, 1982
Subcommittee on Conservation,
 Credit, and Rural Development
Business Meeting
To set authorized ceilings for
 FmHA farm and rural development
 credit programs
H.R. 5831

Mr. Daschle indicated he had no objection to the amendment. **Mr. Bedell** moved the previous question. Mr. Jones asked for a voice vote and the ayes prevailed. Thus, the Bedell amendment to the Daschle amendment was agreed to.

Mr. Coleman moved to strike the word "shall" where it appears on page 2, lines 3, 9, and 15, and insert the word "may". He moved the previous question. The Chairman asked for a division vote and the amendment was not agreed to by a vote of 5 yeas-6 nays.

Mr. Daschle moved the previous question on his amendment. On a division vote of 7 yeas-5 nays, it was agreed to. Mr. Harkin requested a rollcall vote and the clerk was asked to call the roll. The vote follows:

YEAS	NAYS
1. Mr. Bedell	1. Mr. Jeffords
2. Mr. Glickman	2. Mr. Coleman
3. Mr. Daschle	3. Mr. Roberts, Kans.
4. Mr. Dorgan	4. Mr. Morrison
5. Mr. Bowen (proxy to Mr. Jones)	5. Mr. Gunderson
6. Mr. Harkin	
7. Mr. English	
8. Mr. Fithian (proxy to Mr. Jones)	
9. Mr. Panetta (proxy to Mr. Jones)	
10. Mr. Richmond (proxy to Mr. Jones)	
11. Mr. Albosta (proxy to Mr. Jones)	
12. Mr. Jones	
13. Mr. Roberts, S. Dak.	

Thus, the Daschle amendment, as amended, was agreed to by a vote of 13 yeas-5 nays.

Mr. Bedell was recognized to offer an amendment (attached) relative to permitting a borrower who has adequate equity to protect his loan to use proceeds from the sale of property security the loan to make scheduled payment on the loan. After discussion, he moved the previous question. The amendment was agreed to by a division vote of 12 yeas-1 nay, after which Mr. Coleman requested a rollcall vote. The clerk was directed to call the roll and the vote follows:

Tuesday, March 23, 1982
Subcommittee on Conservation,
Credit, and Rural Development
Business Meeting
To set authorized ceilings for
FmHA farm and rural development
credit programs
H.R. 5831

YEAS

1. Mr. Bedell
2. Mr. Glickman
3. Mr. Daschle
4. Mr. Dorgan
5. Mr. Bowen
6. Mr. Harkin
7. Mr. English
8. Mr. Fithian (proxy to Mr. Jones)
9. Mr. Richmond (proxy to Mr. Jones)
10. Mr. Albosta (proxy to Mr. Jones)
11. Mr. Jones
12. Mr. Jeffords
13. Mr. Coleman
14. Mr. Roberts, Kans.
15. Mr. Roberts, S. Dak.
16. Mr. Gunderson
17. Mr. Evans (proxy to Mr. Jeffords)

NAYS

1. Mr. Morrison

Thus, by a vote of 17 yeas-1 nay, the Bedell amendment was agreed to.

Mr. Bedell was recognized to offer a second amendment (attached) relative to interest rates on consolidated, rescheduled, or reamortized loans. General discussion followed. Mr. Glickman moved the previous question and on a division vote of 12 yeas-0 nays, the amendment was agree to. Mr. Jeffords requested a rollcall vote and the clerk was instructed to call the roll. The vote follows:

YEAS

1. Mr. Bedell
2. Mr. Glickman
3. Mr. Daschle
4. Mr. Dorgan
5. Mr. Bowen
6. Mr. Harkin
7. Mr. English
8. Mr. Fithian (proxy to Mr. Jones)
9. Mr. Richmond (proxy to Mr. Jones)
10. Mr. Albosta (proxy to Mr. Jones)
11. Mr. Jones
12. Mr. Jeffords
13. Mr. Coleman
14. Mr. Roberts, Kans.
15. Mr. Morrison
16. Mr. Roberts, S. Dak.
17. Mr. Gunderson
18. Mr. Evans (proxy to Mr. Jeffords)

Thus, by a vote of 18 yeas-0 nays, the Bedell amendment was agreed to.

Tuesday, March 23, 1982
Subcommittee on Conservation,
 Credit, and Rural Development
Business Meeting
To set authorized ceilings for
 FmHA farm and rural development
 credit programs
H.R. 5831

Mr. Bedell was recognized to offer a third amendment (attached) relative to the per centum a borrower of a business and industrial loan may invest in the enterprise. After discussion, Mr. Bowen offered an amendment (attached) regarding the minimum equity requirement to secure these loans. Mr. Bedell moved the previous question on the Bowen amendment and it was agreed to by a division vote of 12 yeas-0 nays. Mr. Bedell moved the previous question on his amendment as amended, and it was to by a division vote of 11 yeas-0 nays.

There being a series of votes on the House Floor, the Subcommittee adjourned at 3:45 p.m., to reconvene at 9:30 a.m. on Wedesday, May 24, 1982, to continue marking up H.R. 5831.

Peggy Pecore
Peggy Pecore

97TH CONGRESS
2D SESSION

H. R. 5831

To provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1982

Mr. JONES of Tennessee (for himself and Mr. JEFFORDS) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 346 of the Consolidated Farm and Rural Development Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) a new subsection (c) as follows:

"(c) Notwithstanding the provisions of subsection (a) of this section—

"(1) loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,000,000,000;

"(B) operating loans, $1,510,000,000; and

"(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for applicants other than low-income, limited-resource borrowers.

"(2) loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $500,000,000;

"(B) industrial development loans, $1,000,000,000: *Provided*, That such loans may be insured, or made to be sold and insured, or guaranteed only with respect to applicants which, in the case of insured loans, are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time, and, in the case of guaranteed loans, are unable, without a guarantee, to obtain sufficient credit from commercial lending institutions at reasonable rates and terms, taking such factors into consideration; and

"(C) insured community facility loans, $300,000,000.".

○

Summary of H.R. 5831
by Mr. Jones (Tenn) and Mr. Jeffords

I. The bill provides the following lending limits for fiscal years 1983, 1984, and 1985 for FmHA farm and rural development loan programs:

Farmer loans

(A) real estate ... $1,000,000,000.

(B) operating ... $1,510,000,000.

(C) emergency (natural disaster) ... such amounts as necessary to meet the needs.

Rural Development loans

(A) water and sewer facility ... $500,000,000.

(B) industrial development (B and I) ... $1,000,000,000.

(C) community facility ... $300,000,000.

II. The bill also includes two provisions making substantive changes in the current status of existing programs:

(A) Limited Resource loan program - the minimum allocation of real estate and operating loans which must be allotted to the limited resource loan program would be increased from 20 percent to 25 percent. The 1980 Act amending this program originally set the allocation at 25 percent. However, the 1981 Reconciliation Act decreased the allocation to the current 20 percent level.

(B) Industrial loan program - the business and industrial loan program would be amended to establish a "credit elsewhere" test. It would require that for borrowers to be eligible in this program, they must be otherwise unable to obtain sufficient credit on reasonable terms from commercial lending institutions.

United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

MAR 2 3 1982

Dear Mr. Congressman:

Enclosed is a copy of the Administration's proposed reauthorization for the Farmers Home Administration's farm programs. This bill is scheduled to be filed today.

Additionally, I am enclosing for your consideration a chart showing the differences between the proposed Jones/Jeffords bill and the Administration's bill, as well as a brief narrative explanation of why we believe the Administration's proposal is preferable.

Sincerely,

Charles W. Shuman
CHARLES W. SHUMAN
Administrator

Enclosures

FmHA Farmers Home Administration is an Equal Opportunity Lender
Complaints of discrimination should be sent to
Secretary of Agriculture Washington, D.C. 20250

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

March 22 1982

Honorable Thomas P. O'Neill, Jr.
Speaker of the House
House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed for the consideration of the Congress is a draft bill "To amend the Consolidated Farm and Rural Development Act." The draft bill would extend certain insured and guaranteed loan programs administered by the Farmers Home Administration (FmHA). It would also delete provisions for limited resource subsidized farm loans.

The Department of Agriculture strongly recommends that this draft bill be enacted.

Section 310D, and related provisions in Sections 307, 316, 333, and 346 of the Act provide for lending at less than cost-of-money interest rates to farm ownership and farm operating applicants of low income. Deletion of these provisions is requested. This action will reduce Government costs for subsidized programs without prejudice to the opportunity of qualified lower-resource farmers to build sound operations with the supervised credit assistance of the Farmers Home Administration. Government costs will be reduced by about $140 million over the lifetime of the loans to limited resource farmers that are provided for in the President's budget for fiscal year 1983. The Administration believes that continued subsidization of limited resource borrowers entails the serious risk of encouraging inefficient production, imprudent risk-taking, and over-extension.

Section 346 of the Act authorizes use of funds for farm, community facility and rural industrialization programs through fiscal year 1982. Authorization for the 3-year period covering fiscal years 1983, 1984 and 1985 is being requested. This request includes a specified ceiling on authority for use of funds for emergency disaster farm loans.

The purpose of this action is to continue the authorization for farm loan programs to assist beginning and established farmers who are unable to obtain sufficient credit through other sources, and to continue the authorization for water and waste disposal and community facility loans to assist rural communities which cannot obtain sufficient credit elsewhere to develop essential community and water and waste facilities.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the Administration's program.

An identical letter has been sent to the President of the Senate.

Sincerely,

John R Block

John R. Block
Secretary

Enclosures

A BILL

To amend the Consolidated Farm and Rural Development Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective October 1, 1982 the Consolidated Farm and Rural Development Act is amended -

(1) in section 307(a)(3) by deleting the designation "(A)" after "(3)" and by deleting subparagraph (B);

(2) in section 307(a)(6)(B) by deleting clause (viii) and inserting in lieu thereof "(viii) clause (5) of section 312(a).";

(3) by deleting section 310D;

(4) in section 316(a) by deleting "(1)" after "(a)", by deleting in the second sentence "and loans as provided in paragraphs (2) and (3)" after "except for guaranteed loans", and by deleting paragraphs (2) and (3);

(5) in section 333(c) by deleting "(or, in the case of a borrower under section 310D of this title, the borrower may be able to obtain a loan under section 302 of this title)"; and

(6) in section 346 by deleting subsection (d) and amending subsection (b) to read:

"(b)(1) To the extent and in such amounts as are approved, in advance, in appropriation acts, loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $818,000,000, including $775,000,000 for farm ownership loans of which $700,000,000 may be for insured loans and $75,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories, and $31,000,000 for water development, use, and conservation loans of which $25,000,000 may be for insured loans and $6,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories;

"(B) operating loans, $1,510,000,000 of which $1,460,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and

"(C) emergency loans, not to exceed $1,540,000,000.

"(2) To the extent and in such amounts as are approved, in advance, in appropriation acts, loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, under the Rural Development Insurance Fund as follows:

"(A) water and waste disposal loans, $300,000,000; and

"(B) community facility loans, $130,000,000."

ADMINISTRATION BUDGET COMPARED WITH JONES/JEFFORDS BILL

PROGRAM (FYs '83, 84, 85)	JONES/JEFFORDS	ADMINISTRATION
Real Estate (FO)	$1 billion	$700 million ins. 75 million guar. 775 million total
Operating	1.510 billion	1.460 billion ins. 50 million guar. 1.510
Limited Resource (25% of FO, OL, Jones)	FO, 250 million OL, 377.7 million	-0- -0-
Emergency (EM)	"amount necessary".	1,540 billion
Insured Water & Waste	500 million	300 million
Business & Industry* (w/credit test for insured B&I)	1 billion	-0-
Insured Community Facility	300 million	130 million

* Unclear from proposed Jones Act whether his B&I is guaranteed or insured.

SUMMARY OF DIFFERENCES

The Jones/Jeffords Bill would authorize $4.3 billion in Federal credit activities (excluding emergency loans) in each of the next three fiscal years. This amount is $1.6 billion over the Administration's budget request for FY 1983. $100 billion of this amount represents direct loan activities which must be financed through Federal borrowing. The remaining $1 billion represents guaranteed loans made by private lenders, under the auspices of the Federal Government.

Currently, the Federal Government accounts for about 42 percent of the domestic credit market. The Administration is attempting to reduce this level in order to provide greater opportunities for the private sector to allocate capital resources in the most efficient manner possible. A reduction in Federal credit activities along with cuts in Federal spending are considered to be essential for controlling inflation, bringing interest rates down to a more reasonable level and facilitating overall economic recovery.

The President's budget for FY 1983 provides for an overall reduction in most Federal credit programs. The farm and rural development programs that are authorized by the consolidated Farm and Rural Development Act, however, are maintained at about the same level as FY 1982 except for emergency loans and business and industry and alcohol fuel loan guarantees. Recent legislative and administrative changes in the Emergency Loan Program as well as expansion of the Federal Crop Insurance Program should provide for a reduction in demand for emergency loans in FY 1983. With regard to Business and Industry and Alcohol Fuel Loan guarantees, it is the Administration's position that the private sector is able to provide credit for these purposes without Federal intervention. Experience has shown that a Federal Guarantee for these purposes does not result in a reduced rate of interest to the borrower and there is no evidence that it improves credit availability.

Summary of Differences Between Administration Proposal and Jones/Jefford Bill

Real Estate - The Administration proposal of $775 million in real estate, insured and guaranteed loan authority, is, we feel, adequate to provide the credit necessary for those borrowers who cannot get credit elsewhere. The Jones/Jefford Bill would add $300 million for insured loans. The Jones/Jefford Bill further earmarks 25% of the total $1 billion for limited resource borrowers. Non-limited resource borrower loans are made at the cost of money to the Federal Government. Limited resource borrower loans are made at 6.625% The Administration Bill proposed elimination of the limited resource borrower program. Therefore, the cost in Fiscal Years 1983 - 1988 would be significantly increased by the increased program size, by the subsidized limited resource program, and by the additional Administrative support cost and would require additional federal borrowing to finance those loans. The Jones/Jefford Bill deletes the $75 million guaranteed authority proposed by the Administration and the authority to transfer up to 25 percentum of amounts between the insured and guaranteed authoritics thereby making a much larger portion of the total loan program federally funded. Guaranteed loans do not require treasury borrowings, insured loans do require federal financing.

Operating Loans - For operating loans, the Jones/Jefford Bill provides the same level of credit. However, it deletes the Administration's proposal to provide $50 million of that funding through guarantee. It further deletes the authority for transfer of an additional 25 percentum between guaranteed and insured loans. The net effect of the Jones/Jefford Bill would increase the federal funding by at least $50 million the portion of the total which would be guaranteed under the Administration proposal.

Limited Resource Borrowers - The Administration proposed the deletion of the authorization for limited resource borrowers. This authorization in effect set aside 25% of operating and farm ownership loans for those borrowers and reduced the interest rate to those borrowers. This action would reduce Government costs for subsidized programs without prejudice to the opportunity of qualified lower-resource farmers to build sound operations with the supervised credit assistance of the Farmers Home Administration. Government costs will be reduced by about $140 million over the lifetime of the loans to limited resource farmers that are provided for in the President's budget for fiscal year 1983. The Administration believes that continued subsidization of limited resource borrowers entails the serious risk of encouraging inefficient production, imprudent risk-taking, and over-extension.

Emergency Loans - The Administration proposed a limitation of $1,540 million on emergency loans. The Jones/Jefford Bill deletes this limitation and thereby removes any limitation on the emergency program. Since the actual loss portion of these emergency loans will be loaned at an 8% interest rate, removing the limit provides a potential for a significant increased cost to the Government.

Business and Industry Loans - The Jones/Jefford Bill could provide up to $1 billion insured loan authority for industrial development loans. The Administration proposed not to extend the authority for any loans or guarantees for this purpose. The interest rate provided for these loans would be the Government's cost of borrowing for profit businesses and at the municipal bond rate for public entities. The entire $1 billion if it were made to organizations who could not get credit elsewhere could be made as insured loans and, therefore, would require Federal funding. Any loans made to public entities would also involve a significant interest subsidy.

Insured Community Facility Loans - The Jones/Jefford Bill provides $300 million for insured community facility loans. The Administration had proposed a program of $130 million. The insured community facility loans are made at an interest rate comparable to the rate for municipal obligations. Certain communities quality for a lower rate (5%) depending upon income levels and health and sanitary conditions. The additional cost to the Government of the Jones/Jefford Bill is the interest differential between the cost of money to the Federal Government and the subsidized rate on the increased $170 million loan authority. There is also an additional administrative cost connected with the larger program.

Insured Water and Waste Loans - The Jones/Jefford Bill provides $500 million for insured water and waste loans. The Administration had proposed a program of $300 million. The insured water and waste loans are made at an interest rate comparable to the rate for municipal obligations. Certain communities qualify for a lower rate (5%) depending upon income levels and health and sanitary conditions. The additional cost to the Government of the Jones/Jefford Bill is the interest differential between the cost of money to the Federal Government and the subsidized rate on the increased $200 million loan authority. There is also an additional administrative cost connected with the larger program.

97TH CONGRESS
2D SESSION

H. R. 5666

To amend section 331A of the Consolidated Farm and Rural Development Act to defer payment of principal and interest of loans.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1982

Mr. DASCHLE (for himself and Mr. DORGAN of North Dakota) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To amend section 331A of the Consolidated Farm and Rural Development Act to defer payment of principal and interest of loans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 331A of the Consolidated Farm and Rural Development Act is amended by—

(1) inserting the designation "(a)" before the text thereof, striking out "section" and inserting in lieu thereof "subsection"; and

(2) adding at the end thereof a new subsection (b) as follows:

"(b) During the period beginning with the enactment of this subsection and ending September 30, 1983, the Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, and shall forgo foreclosure of any such loan upon a showing by the borrower that he or she has demonstrated good management practices and that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payment on such principal and interest then due without unduly impairing the standard of living of the borrower. The Secretary shall permit interest that would accrue during the deferral period on any loan deferred under this subsection to bear no interest during or after such period: *Provided*, That the above provision be limited to family-size farms as determined by the County Committees in accordance with Section 333(b) of this Act: *Provided further*, That the Secretary shall adopt regulations which provide: (a) notification of all farm borrowers about the above deferral provisions and all other servicing alternatives offered by FmHA; (b) clear procedures by which borrowers can petition the Secretary for the above deferral provisions and all other servicing alternatives offered by FmHA; and (c) appeal of a decision which denies deferral or other servicing relief or refuses to forgo foreclosure.".

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AMENDMENT TO H.R. 5831

Offered by Mr. Bedell

On page 3, after line 10, insert the following:

"Sec. 2. Section 316 of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof a new subsection (c) as follows:

'(c) The Secretary shall permit a borrower under this subtitle who has adequate equity to protect the loan to use proceeds from the sale of property securing the loan to make prospective scheduled payments on the loan: Provided, That such sale does not impair the borrower's ability to continue his operation.'."

AMENDMENT TO H.R. 5831

Offered by Mr. Bedell

On page 3, after line 10, insert the following:

"Sec. 2. Section 331A of the Consolidated Farm and Rural Development Act is amended by--

(1) inserting the designation "(a)" before the text thereof and striking out "section" and inserting in lieu thereof "subsection"; and

(2) adding at the end thereof a new subsection (b) as follows:

"(b) Notwithstanding any other provisions of this title, the Secretary, in exercising any authority under this title to consolidate, reschedule, or reamortize outstanding loans to farmers or ranchers, shall establish, for the balance of the term of the original loans, an interest rate on the consolidated, rescheduled, or reamortized loans which does not exceed the rate of interest on the original loans."

AMENDMENT TO H.R. 5831

Offered by Mr. Bedell

On page 3, after line 10, insert the following:

"Sec. 2. Section 310B(d)(5) of the Consolidated Farm and Rural Development Act is amended to read as follows: No loan commitment issued under this section, section 304, or section 312 shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant of up to, but not exceeding, 20 per centum."

Current Language

(5) No loan commitment issued under this section, section 304, or section 312 shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant greater than 10 per centum.

AMENDMENT OFFERED BY MR. BOWEN

to Amendment Offered by Mr. Bedell

At the end of Mr. Bedell's amendment insert the following:

"Sec. 3. Section 310B(d) of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following new paragraph (7):

'(7) The Secretary shall, for purposes of paragraph (5), permit an applicant to make the required investment in the form of cash, tangible earning assets at book value, or appraisal surplus, or any combination thereof.'."

This amendmet would reverse the FmHA regulation issued final on January 28, 1982, stating the minimum equity requirement must consist of cash or tangible earning assets at book value to secure a B&I loan. Prior to this change, appraisal surplus was sufficient for this requirement.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 23, 1982

(Sub) Committee: Department Operations, Research, & Foreign Agriculture

Meeting: Open business meeting

Subject: Federal Insecticide, Fungicide and Rodenticide Act Amendments

Bill Nos. H.R. 5203

The Department Operations, Research & Foreign Agric. **(Sub) Committee** **met in** open markup **Session at** 2:30 pm **o'clock, in Room** 1301 LHOB

The following Members were present:

- Mr. Brown (Calif.)
- Mr. Bowen
- Mr. Fithian
- Mr. Panetta
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr. Wampler
- Mr. Thomas
- Mr. Roberts (Kans.)
- Mr. Emerson
- Mr. Evans
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
- Mr.
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- Mr.
- Mr.
- Mr.

Staff Present:

Bob Bor, Chief Counsel
Charles Benbrook, Subcommittee Staff Consultant
John Hogan, Minority Counsel
Jerry Jergensen, Minority Consultant
Tom Adams, Staff Consultant
Bernard Brenner, Press Assistant
Nick Ashmore, Staff Assistant
Christine Abram, Staff Assistant (Clerk)

Witnesses:

1. The following were invited to come forward and speak for the Environmental Protection Agency:

   Dr. John A. Todhunter, Assistant Administrator for Pesticides and Toxic Substances

   Dr. Edwin Johnson, Deputy Assistant Administrator for Pesticide Programs

2. The following was asked to come forward and speak as an individual associated with the producer industry:

   Dr. Jack Early, President, National Agricultural Chemicals Association

Statements Filed:

U.S. GOVERNMENT PRINTING OFFICE [illegible]

March 23, 1982
Department Operations, Research, and
Foreign Agriculture Subcommittee
FIFRA Amendments
H.R. 5203
Business meeting

Action taken:

-- By unanimous consent, Committee Print "Amendment in the Nature of a Substitute to H.R. 5203" adopted as vehicle for markup

-- Amendment by Mr. Fithian to the Committee Print failed by a tie show-of-hands vote.

-- Amendment offered by Mr. Evans approved after unanimous consent was given to a request for permission for the staff to modify the wording.

-- Wampler amendment pertaining to disclosure of data to other countries agreed to by voice vote.

Chairman Brown called the meeting to order at 9:55 a.m. for the purpose of marking up H.R. 5203, to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

Mr. Brown asked for approval of "Amendment in the nature of a substitute to H.R. 5203" prepared by Committee staff (referred to in these Minutes as Committee Print) for use as the markup vehicle; there was no objection. A copy of the Committee Print is included in these Minutes as Exhibit 1.

Dr. Todhunter was invited to the witness table to speak for the Environmental Protection Agency. After saying a few words, Dr. Todhunter delegated Dr. Johnson as spokesman for the EPA in the issues before the subcommittee.

Mr. Bor began explaining the Committee Print in detail. Following his explanation of Section 3, the Chairman suggested that the subcommittee proceed on a section-by-section basis.

Mr. Fithian offered an amendment to Section 3 of the Committee Print, a copy of which is appended to these Minutes as Exhibit 2. Following Mr. Fithian's explanation of his amendment, Dr. Johnson offered the EPA's viewpoint, outlining a number of objections on the part of the agency. A written summary of the EPA position, a letter dated March 23 from Dr. Todhunter to Chairman Brown, is appended to these Minutes as Exhibit 3.

By a show-of-hands vote of 3 to 3, Mr. Fithian's amendment to the Committee Print was rejected.

Mr. Evans offered an amendment to the Committee Print, a copy of which is appended to these Minutes as Exhibit 4. Following remarks by Mr. Evans, Dr. Johnson expressed opposition of the EPA. Mr. Evans suggested that the amendment might be rephrased to meet the agency's objections. Mr. Evans's amendment and the rephrasing language appear appended to these Minutes as Exhibit 4. Mr. Evans asked for and received unanimous consent for the reformed language. Mr. Evans's amendment, as modified, was then adopted without objection.

There being no further action pertaining to Section 3, Mr. Bor began to explain following sections of the Committee Print. Reference was made to "Principles for Regulations Implementing Section 10 Amendments"; a copy of these Principles is included in these Minutes as Exhibit 5, to be part of the legislative history of these amendments.

Following Mr. Bor's explanation of Section 10 of the Committee Print, Mr. Wampler offered an amendment, a copy of which is appended to these Minutes as Exhibit 6. Dr. Johnson participated in the discussion for the EPA, and Dr. Jack Early was invited by Chairman Brown to speak for the industry.

Following discussion, Mr. Wampler's amendment was adopted by voice vote in the presence of a quorum.

At 3:45 p.m. the Chairman adjourned the meeting, following agreement that the subcommittee should meet at 9:30 a.m. the following Thursday, March 25.

Christine L. Abram

Christine Abram

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97TH CONGRESS
1ST SESSION

H. R. 5203

To amend the Federal Insecticide, Fungicide, and Rodenticide Act.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 1981

Mr. BROWN of California (for himself, Mr. WAMPLER, Mr. BOWEN, Mr. EMERSON, Mr. EVANS of Iowa, Mr. FITHIAN, Mr. ROBERTS of Kansas, and Mr. THOMAS) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981".

DEFINITIONS

SEC. 2. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (ee) by striking out "or" immediately before clause (4) and inserting before the

colon at the end of clause (4) the following: ", or (5) using a registered pesticide for the formulation of an end-use product or repackaging a pesticide which is an end-use product, unless such use is prohibited by the labeling";

(2) adding at the end thereof the following new subsections:

"(ff) New Active Ingredients.—The term 'new active ingredient' means an active ingredient that has not been listed as an active ingredient in the ingredient statement of any registered pesticide product that has been registered under this Act.

"(gg) New Use.—The term 'new use' means—

"(1) a change in the use pattern of a pesticide from nonfood to food use, food to nonfood use, outdoor to indoor use, indoor to outdoor use, terrestrial to aquatic use, aquatic to terrestial use, nondomestic to domestic use, domestic to nondomestic use.".

REGISTRATION OF PESTICIDES

Sec. 3. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (c)(1) to read as follows:

"(c) Procedure for Registration.—

"(1) STATEMENT REQUIRED.—Each applicant for registration shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) data as required for registration as provided in subsection (h) of this section with the trade secret or commercial or financial information marked as required by section 10(a) of this Act;

"(E) the complete formula of the pesticide; and

"(F) a request that the pesticide be classified for general use, for restricted use, or for both.";

(2) amending subsection (c)(2)(A) to read as follows:

"(2)(A) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which would usually be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter the Administrator requires any additional kind of information under subparagraph (B) of this paragraph, the Administrator shall permit sufficient time for applicants to obtain such additional information. The Administrator, in establishing guidelines for data requirements for the registration of pesticides with respect to minor uses, and with respect to various types and classes of pesticides, shall make such guidelines commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these guidelines, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the guidelines on the incentives for any potential registrant to undertake the development of the required data. Guidelines and modifications thereof shall be published in the Federal Register. The Administrator shall provide for public comment for Agency guidance in development of such guidelines or modifications. Except as provided by section 10, of this Act, within 30 days after the Administrator registers a pesticide under this Act the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.";

(3) amending subsection (c)(2)(B) to read as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

"(ii) Each registrant of such pesticide shall provide evidence within 180 days after receipt of the notification specified in clause (i) of this subparagraph that it is taking the appropriate steps prescribed by the Administrator to secure the required data. Such steps shall include entering into a joint data development arrangement, unless such registrants unanimously agree otherwise, or unless the registrant qualifies for an exemption under subparagraph (D) of this paragraph. As an initial cost of participation the joint data developers shall divide equally 25 percent of the estimated total cost of producing the required data or each shall pay $100,000, whichever is less. The balance of the cost of producing the data shall be paid by the joint data developers as needed, and shall be shared by each joint data developer on the basis of its United States market participation for the pesticide being tested, based on total pounds sold or used annually. Each joint data developer's market participation shall be adjusted during the period of the data development so that the most recent sales figures are used to compute each member's market share for the purpose of determining its share of the remaining cost of producing the required data. Each of the joint data developers shall submit adequate evidence of its annual market participation to an independent auditor for each of the years during the period of the joint data development. Such independent auditor shall be chosen by the joint data developers. The auditor's decisions and determinations shall be final and binding on each of the joint data developers. If additional data are required by the Administrator under this paragraph, the same formula and procedure specified in this paragraph shall apply as if the subsequent request were the initial request for data. Any registrant who shares in the cost of producing the data shall be entitled to receive a copy of the data, and to examine and rely upon such data in support of maintenance of such registration.

"(iii) Notwithstanding any other provision of this Act, if a registrant, within the 180-day period prescribed in clause (ii) of this subparagraph, fails to participate in a joint data development arrangement under that clause, or at any time fails to comply with the terms of such an arrangement, or if any of the joint data developers fails to take appropriate steps to secure and submit the required data, the Administrator shall issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data are required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of 30 days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice, or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basic for the notice of intent to suspend. If a hearing is requested, hearing shall be conducted under section 6(d) of this Act. The only matters for resolution at that hearing shall be whether the Administrator had a valid and reasonable basis for requiring the additional data, whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a determination shall be made within 75 days after receipt of a request for such hearing, and the decision made after completion of such hearing shall be final and shall not be subject to judicial review. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basic for the suspension of the registration.

"(iv) Data submitted under this subparagraph shall not be considered by the Administrator to support any registration action or experimental use permit on behalf of any person other than the joint data developers for a period of 15 years after the data are submitted, unless any such person has reimbursed the joint data developers by paying a share of the cost of producing the data in proportion to the number of persons sharing in such cost. Any such person shall upon payment be considered to be an original participant and shall share in all rights and be bound by all obligations entered into by the original data developers. Such reimbursement shall be returned to the original participants based on the percentage of their overall monetary participation in the joint data development arrangement.

"(v) Health and safety data submitted by a registrant or applicant after September 30, 1978, to replace data which are scientifically insufficient under generally accepted good laboratory practices or test standards shall be considered to be data requested by the Administrator under clause

(i) of this subparagraph. A registrant or applicant undertaking such replacement studies shall notify all other registrants of the active ingredient that these replacement studies are being performed or have been performed entitling each registrant to participate in a joint data development arrangement as provided in clause (ii) of this subparagraph. If other registrants decide to voluntarily participate, the provisions of clauses (ii), (iii), and (iv) of this subparagraph shall apply. Subsequent applicants shall be entitled to participate as provided in subparagraph (iv).";

(4) amending subsection (c)(2)(D) to read as follows:

"(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such purchased products;

"(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection and subsection (h) for the use of any such data; or "(iii) share the cost of producing data required by paragraph (2)(B) of this subsection.";

(5) amending subsection (c)(3) to read as follows:

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—After receipt of the application, the Administrator shall review the data as expeditiously as possible, and either register the pesticide in accordance with paragraph (5) or (7) of this subsection, or notify the applicant in accordance with paragraph (6) of this subsection of the Administrator's determination that it does not comply with the provisions of the Act.";

(6) amending subsection (c)(8) by inserting the designation (A) immediately before "Notwithstanding any other provision of this Act", and adding new subparagraphs at the end thereof as follows:

"(B) At least 90 days prior to initiating a public interim administrative review process, the Administrator shall notify all affected registrants of the risks upon which the proposed review will be based. In finally determining whether to initiate a public interim review, the Administrator shall consider any correcting or clarifying data or other information submitted by a registrant, including data on human or environmental exposure. If after giving notice to registrants under this subparagraph, the Administrator determines that it is not necessary to initiate a public interim review, then the Administrator shall make the reasons therefor available to the public.

"(C) The Administrator shall not by regulation or otherwise utilize a public interim administrative review process to abridge entitlement to a public hearing in accordance with section 6 of this Act.

"(D) A decision by the Administrator not to cancel or suspend the registration of a pesticide or any use thereof or not to restrict the classification of a pesticide, following an interim administrative review, shall be subject to judicial review under section 16(b) of this Act. Any final decision by the Administrator to such effect shall be deemed 'an order issued by the Administrator following a public hearing' for the purpose of section 16(b), and any person who has participated in an interim administrative review shall be deemed 'a party to the proceedings' for the purpose of that subsection.";

(7) amending subsection (d)(1)(C)(ii) to read as follows:

"(ii) if the Administrator classifies a pesticide, or one or more uses of a pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such restrictions, including but not limited to geographic, hydrogeologic, soil-specific or seasonal restrictions, as the Administrator may provide by regulation. Any such regulation shall be reviewable in the appropriate court of appeals upon petition of a person adversely affected within 60 days after issuance of the regulation in final form.';

(8) adding at the end of subsection (g) the following: "The Administrator shall furnish registrants reasonable notice of when they must apply for reregistration of their products. If an application for reregistration of a product is not received within 90 days (or such longer period as the Administrator may designate) after such notice has been received, the Administrator shall issue an order canceling the product's registration. The Administrator may include in the order such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of the product. An order issued under this subsection

shall be a final agency action for purposes of section 16(a) of this Act."; and

(9) adding a new subsection (h) to read as follows:

"(h)(1) With respect to applications approved in the period beginning 18 months after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981, an applicant shall supply the data required for registration as set forth in this paragraph. The applicant shall submit data or cite data previously submitted to the Administrator, or use any combination of those two methods, except to the extent that the applicant is precluded from relying on data by the following provisions:

"(A) The following data shall not, without the written permission of the original data submitter, be relied on by any other applicant to support any application for any registration action (conditional or unconditional) or experimental use permit during a period commencing with the date the data are originally submitted and ending 15 years after the date the Administrator approves the original data submitter's application:

"(i) Data (other than defensive data) submitted to support the application for the original registration of a pesticide product that contains a new active ingredient and that was initially registered under this Act after September 30, 1978;

"(ii) Data submitted after September 30, 1978, to support an application to amend a registration of any pesticide by adding a new use, or to register a pesticide with a new use, and that pertain solely to such new use, regardless of the date of the original registration of the pesticide or its active ingredients; and

"(iii) Data (other than defensive data) submitted after the effective date of this amendment to support an application for an experimental use permit for a pesticide containing a new active ingredient;

"(B) During the period in which data of an original data submitter are entitled to exclusive use protection under paragraph (A) of this subsection, any subsequent applicant also may obtain a registration for the same new active ingredient or new use, or may obtain a permit for the same experimental use, by independently filing with the Administrator the data required for registration or for the permit and by satisfying the pertinent requirements of section 3(c)(5), 3(c)(7), or 5 of the Act. Data submitted by such subsequent applicant shall be entitled to the same exclusive use protection as described in paragraph (A) of this subsection but only for the duration of the period of exclusive use remaining for data submitted by the original data submitter and can be relied upon by others only with the written permission of the submitter of that data.

"(C) Data submitted pursuant to subsection (c)(2)(B) of this section may be relied on by an applicant only in accordance wth the provisions of that subsection.

"(D) Data not described by subparagraph (A), (B), or (C) of this paragraph and submitted by an applicant or registrant after December 31, 1969, but on or before September 30, 1978, to support an application for registration, experimental use permit, amended registration, or to support or maintain in effect an existing registration, or for reregistration may not, during the 15-year period following the date the data were originally submitted, be relied on in support of an application by any other person (hereinafter referred to in this subparagraph as the 'applicant') without the written permission of the original data submitter, unless the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery of the offer to the original data submitter. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor agreed on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(E) Except as provided in subparagraphs (A) through (D) of this paragraph, an applicant may rely on any item of data without obtaining the permission of the original data submitter and without offering to compensate the original data submitter for the use of such item of data.

"(F) Notwithstanding any other provision of this Act, no provision of section 3 of this Act shall abridge the right of an applicant or registrant to obtain a registration, reregistration, amended registration, or experimental use permit (i) solely on the basis of data originally submitted by the applicant or registrant itself, (ii) except as provided in subparagraphs (A) through (D) of this paragraph, on the basis of previously submitted data cited or submitted by an applicant or registrant, or (iii) any combination of the foregoing; and the Administrator shall not in any way abridge such right.

"(G) After the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981, the Administrator may approve an application only upon a determination that the application is in compliance with subsections (c)(1)(D) and (h) of this section. If an applicant has submitted or cited data which are required for registration in a manner consistent with subsections (c)(1)(D) and (h), the Administrator may then review any other data in deciding whether the product causes (or would significantly increase the risk of) unreasonable adverse effects on the environment.

"(H) For the purposes of subsection (h)(1) of this section, the term 'data required for registration' means the minimum kinds and number of studies which the Administrator would require in order to approve an application for unconditional registration under subsection (c)(5) of this section of a product with composition and labeling identical or substantially similar to that of the applicant's product, including data sufficient to satisfy guidelines issued under subsection (c)(2)(A) of this section: *Provided,* That for purposes of paragraph (1)(A)(ii), (1)(C), and (1)(D) of this subsection, the term includes only data concerning the product's active ingredient(s): *Provided further,* That to the extent that any such data have not been generated by any applicant or registrant or have been determined by the Administrator to be invalid, the provisions of subsection (c)(7) of this section shall apply. Nothing contained in subsection (h)(1) shall limit the provisions of subsection (c)(2)(D) of this section. After the effective date of this paragraph, an applicant for registration of a product whose active ingredients and intended uses are identical or substantially similar to those of one or more already registered products need not submit or cite data concerning any of the product's active ingredients unless data of the same type for such ingredients appear on the indexes prepared in accordance with subparagraph (I) of this paragraph.

"(I) The Administrator shall compile, for each active ingredient affected, an index comprised of each item of data described by subparagraphs (A), (B), and (C) of this paragraph. For each such item of data, the list shall set forth the date item of data was originally submitted, the identity of the original submitter, a brief description of the kind of study that yielded the data, and the subparagraph in subsection (h)(1) that describes the data. The Administrator shall make the first such set of indexes available for release to the public not later than 1 year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981. An item of data that was originally submitted to the Administrator on or before the date of enactment of this subparagraph may be included on any such index only if, not later than 180 days after such date of enactment, the Administrator has received from the original submitter of that item of data a written statement setting forth the date the item of data was originally submitted, a brief description of the kind of study that yielded the data, the subparagraph in this paragraph (1) that describes the data, the Environmental Protection Agency data accession number (if known), and the reasons why the item of data is entitled to be included in the index. The Administrator shall, not less frequently than semiannually, update the indexes by adding any item of data described by subparagraph (A), (B), or (C) of this paragraph and submitted after the effective date of these amendments, and by deleting items of data which no longer are described by subparagraphs (A), (B), (C), or (D) or which the Administrator finds were incorrectly included on the indexes. A decision by the Administrator to include an item of data on such an index, or to exclude it, shall be a final Agency action reviewable under section 16(a) of the Act.

"(J) At the request of an applicant for registration of a product containing a particular active ingredient, the Administrator shall require the original submitter of any items of data which concern that active ingredient, but which are not included on any index compiled under subparagraph (I) of this paragraph, to furnish a report which briefly describes the type of study which yielded each such item of data, states the date each such item of data was originally submitted, and states any accession numbers or other identifying information used by the Agency to catalog the items of data.

"(K) Each applicant for registration under this section, and each applicant for amendment of an existing registration to add a new use, shall include with his application a list of the applicable data requirements and a list of the data he is submitting or citing to satisfy each such requirement. After the Administrator has approved an application, those lists shall be available to the public. Any person who claims that the applicant has incorrectly listed the applicable data requirements, has not submitted or cited data sufficient to satisfy those requirements, or otherwise has failed to comply with subsection (c)(1)(D) or (h) of this section, and who claims to have been adversely affected by the approval of the application in his capacity as the original submitter of data included on an index described by subsection (h)(1)(I) of this section, may petition the Administrator to hold a hearing to determine whether the registration should be canceled. Such petition shall be in writing and shall contain a detailed statement of reasons why the registration should be canceled. Upon receipt of the petition, the Administrator shall afford the registrant a reasonable period of time, not to exceed 60 days, to respond to the petitioner's allegations. The Administrator shall then decide in writing what action to take on the petition.

"(a) If the Administrator finds that the petition and any response show that there is no reasonable possibility that a hearing would lead to cancellation of the registration for the reasons set forth in the petition, the Administrator shall deny the petition. Any such denial shall be a final Agency action for purposes of judicial review under section 16(a) of the Act. The reviewing court shall not allow discovery proceedings nor receive testimony or evidence, and shall base its review solely on the petition, the registrant's response, the Administrator's decision, and the pleadings and briefs filed with the court. If the court finds that the Administrator's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, the court shall remand the matter to the Administrator for purposes of holding a hearing under this paragraph. If the court does not so find, the case shall be dismissed.

"(b) If the Administrator finds that the petition and any response indicate that there is a reasonable possibility that a hearing may lead to cancellation of the registration for the reasons set forth in the petition or if the Administrator is ordered by a court to hold a hearing, the Administrator shall issue a notice of intent to hold a hearing to determine whether the product's registration should be canceled, which notice shall be published in the Federal Register and furnished by certified mail to the registrant and the petitioner. The hearing shall be held in the manner provided by section 6(d) of the Act: *Provided*, That the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing: *And provided further*, That the petitioner shall have the burden of proving that the registration should be canceled. Review of the Administrator's order following such a hearing shall be governed by section 16(b) of the Act. The provisions of this subparagraph shall constitute the sole and exclusive means of review, at the behest of any person other than the Administrator, of the extent to which an application for registration complies with subsection (c)(1)(D) or (h) of this section, notwithstanding the other provisions of this Act, chapters 5 and 7 of title 5 of the United States Code, or any other statute.

"(2) With respect to applications approved before expiration of the 18-month period after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981, an applicant shall supply the data required for registration as set forth in this paragraph. An applicant shall file a statement that includes, except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

"(A) with respect to pesticides containing active ingredients that are initially registered under this Act after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of 15 years following the date the Administrator first registers the pesticides: *Provided,* That such permissions shall not be required in the case of defensive data;

"(B) except as otherwise provided in paragraph (A) of this subsection, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the 15-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this paragraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take actions and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(C) after expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under paragraphs (A) and (B) of this subsection, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data.".

CANCELLATION AND CHANGE IN CLASSIFICATION

SEC. 4. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending clauses (1) and (2) of the first sentence to read as follows:

"(1) to cancel or phase out its registration, or to change its classification, together with the reasons (including the factual basis) for such action, or

"(2) to hold a hearing to determine whether or not its registration should be canceled or phased out, or its classification changed.";

(2) striking out the third sentence and inserting in lieu thereof the following: "In determining whether to issue any such notice, the Administrator shall include among the factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers, and on the agricultural economy. The determination of such impacts shall be based on biologic and economic assessments, including but not limited to any prepared by the Department of Agriculture. Such assessments shall be used by the Administrator in formulating and assessing the impacts of the proposed regulatory action."; and

(3) striking out the last sentence and inserting in lieu thereof the following: "In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers and on the agricultural economy, and the Administrator shall publish in the Federal Register a notice of availability of an analysis of such impacts. In

preparing the final analysis of such impacts, the Administrator shall fully consider all comments on the proposal, including those provided by the Secretary.".

PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

SEC. 5. Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (a) to read a follows:

"(a) IN GENERAL.—In submitting data required by this Act, the data submitter must clearly mark portions thereof which in the opinion of the data submitter are trade secrets or commercial or finanicial information, explain why each marked portion is not required to be disclosed under subsection (d)(1) of this section, and submit such marked materials separately from the other material required under this Act.";

(2) amending subsection (c) to read as follows:

"(c) DISPUTES.—If the Administrator proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, including information which the applicant or registrant claims is of the type described in clauses (A), (B), or (C) of subsection (d)(1) of this section, the Administrator shall notify the applicant or registrant, in writing, by certified mail. The Administrator shall not thereafter make available for inspection such data until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate district court for a declaratory judgment as to whether such information is subject to such protection from disclosure.";

(3) amending subsection (d)(1) to read as follows:

"(d) LIMITATIONS.—

"(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public as provided in subparagraphs (A) to (D) of paragraph (2) of this subsection: *Provided,* That the use of such data for any registration purpose shall be governed by section 3 of this Act. This paragraph does not authorize the disclosure of any information as to—

"(A) manufacturing or quality control processes,

"(B) the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredient of a pesticide, or

"(C) the identity or percentage quantity of any deliberately added inert ingredient of a pesticide, unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

Before disclosing any information under this paragraph (other then information which has already been made public or which the applicant has previously determined as not containing trade secret or commercial or financial information), the Administrator shall afford the data submitter that originally submitted the information a reasonable period of time, not to exceed 60 days from the date of receipt by the applicant or registrant of a request by the Administrator, to identify any portions of the information the applicant or registrant claims are described by clause (A), (B), or (C) of this paragraph and to substantiate such claims. If no claim is made (or if the claim is not reasonably substantiated) within the period afforded, the information shall be made available in accordance with this section. The provisions of subsection (c) of this section shall apply to disputes with respect to information which the Administrator finds not to be to the type described by clause (A), (B), or (C) of this paragraph.";

(4) redesignating subsections (d)(2) and (d)(3) as subsections (d)(3) and (d)(4), respectively;

(5) adding a new subsection (d)(2) to read as follows:

"(d)(2) The Administrator shall make information that may be disclosed under subsection (d)(1) of this section available through Environmental Protection Agency reading rooms to be located at Environmental Protection Agency national headquarters and each of its regional offices. Such information shall be transmitted by the Administrator to the regional offices as requested. All copies of data disclosable or available in or from an Environmental Protection Agency reading room shall remain under the control of the United States Government.

"(A) Except for employees or agents of any person engaged in, or which intends to engage in, the production or registration of pesticides, or any other person which intends to deliver data in violation of this section to any employee or agent of any person engaged in the production or registration of pesticides, all members of the public, including employees of the United States and agencies of State governments, shall be permitted access to the reading rooms established pursuant to this section: *Provided*, That employees, or their agents, having jurisdiction over pesticide matters in any agency of the United States or a State government shall have access to the reading room even though the agency may be a pesticide registrant or producer: *And provided further*, That designated representatives of groups of employees, or individual employees, of pesticide producers who seek access to information available for disclosure in connection with providing advice on the health effects of the pesticide or its ingredients to the employees shall be permitted access to the reading room.

"(B) Any person described in subparagraph (A) who wishes to make use of the reading room for any purpose shall—

"(i) state in writing the name, address, and occupation of that person and any other person which the person is representing, and a description of the information, if any, which the person seeks to remove or copy;

"(ii) sign a statement that such person does not seek access to information for the purpose of informing any person engaged in the production or registration of pesticides of the contents of such information and will not cause such information to be disclosed to any such person or its agents or employees, except for information which may be copied under subparagraph (C) of this paragraph, and except to the extent such disclosure is made in compliance with paragraph (G) of this subsection; and

"(iii) comply with rules and procedures established by the Administrator consistent with the provisions of this section.

"(C) Subject to the requirements of subparagraphs (B), (D), (E), and (F) of this paragraph, any person having access to a reading room may—

"(i) take notes on any information available for disclosure in the reading room;

"(ii) obtain on request from the Environmental Protection Agency at the reading room a copy of any charts, graphs, or tables containing statistical data that may be contained in any study available for disclosure in the reading room;

"(iii) remove any notes and copies of the foregoing charts, graphs, or tables from the reading room and retain such material without returning it to the reading room; and "(iv) borrow and remove from the reading room any other documents containing information available for disclosure under this section.

"(D) Authorized representatives of agencies of the Federal and State governments not also employed by or acting on behalf of a person engaged in the productin or registration of pesticides may remove any information available for disclosure from the reading room, including complete studies, after complying with the requirements of paragraph (B).

"(E) United States medical practitioners and health and safety professionals, including those designated by a labor union or designated by an employee of a pesticide producer, and any other individual or organization not otherwise restricted from access to a reading room, may apply to the Administrator for permission to borrow and remove any information available in a reading room, including complete studies. The Administrator shall grant such permission within not more than 30 days after the application is received unless the Administrator has determined that the person should be denied permission pursuant to the protections afforded data in subparagraph (G) of this paragraph. The Administrator shall forward a copy of the application to the business entity originating the information requested, provide that business entity ten days to transmit to the Administrator any factual information related to the application that the entity believes the Administrator should consider before acting upon the application, and inform the entity regarding the Administrator's intention to approve the application 15 days before the actual release of the information from the reading room. The Administrator's decision with regard to an application for permission to borrow and remove documents containing information available for disclosure in a reading room shall be final and not subject to judicial review.

"(F) Once a person has been granted permission to borrow and remove documents containing information available for disclosure in a reading room, such person shall not be required to reapply for permission to borrow and remove material as long as that person has complied with the rules and regulations prescribed by the Administrator in subparagraph (B)(iii) of this paragraph. In addition, such person may request and receive and return documents containing information borrowed from a reading room through registered mail.

"(G) Except as otherwise provided in this subparagraph, all documents containing information available for disclosure borrowed from a reading room shall be returned to that reading room and shall not be disclosed or made available in any manner by the borrower to any other person. Any person that obtains from the reading room a copy of any charts, graphs, or tables containing statistical data or makes notes based upon any study available for disclosure in the reading room need not return such copies and notes and may use such material for any purpose including, but not limited to, participation in administrative, judicial, or legislative proceedings, publication, medical treatment, or evaluating potential health effects of a pesticide. Except for charts, graphs, and tables containing statistical data and notes based upon the available studies, no person may reproduce in any manner any material borrowed from the reading room. For the purpose of this paragraph, notes shall not include a verbatim transcript of an entire study. If any person violates the provisions of this paragraph, that person and any other person upon whose behalf he or she was acting, may be debarred by the Administrator from any further access to the reading rooms."; and

(5) amending subsections (f) and (g) to read as follows:

"(f) DISCLOSURE TO PESTICIDE PRODUCERS.—

"(1) Except as otherwise provided in this section, the Administrator shall not knowingly allow access to an Environmental Protection Agency reading room or otherwise disclose information submitted by an applicant or registrant under this Act to any employee or agent of any person engaged in, or who intends to engage in, the production of pesticides or to any other person who intends to disclose such data to such person, unless the data submitter has consented to such disclosure. Notwithstanding any other provision of this section, during administrative adjudicatory hearings or court litigation a party may, pursuant to an appropriate protective order issued by the court or presiding administrative official, examine and obtain a copy of data submitted by another person (other than data described by subsections (d)(1) (A) through (C) of subsection (d)(3) of this section), if the party's access to the data is found to be necessary in order to allow the party to participate fully in the hearing or litigation.

"(2) The Administrator shall maintain and make available upon request records containing the information required by subsection (d)(2)(B)(i) of this section. When data are borrowed and removed from a reading room under this section, the Administrator shall inform the data submitter of the identity of the data and the information furnished by the borrower under subsection (d)(2)(B)(i) of this section.

"(g) INTERNATIONAL AGREEMENTS.—Notwithstanding any other provision of law—

"(1) The Administrator shall not make available for public inspection any document or information concerning pesticides if (A) the Administrator obtained the document or information from the government of another country (or from an international organization of countries), (B) the government or international organization required the Administrator to agree not to disclose the document or information to the public as a condition of furnishing it to the Administrator, (C) the Administrator could not otherwise obtain the document or information, and (D) the government or international organization continues to demand that the document or information not be made available for public inspection.

"(2) Except for information describing subsection (d)(1)(A) or (d)(2) of this section, the Administrator may disclose information otherwise entitled to protection under this section to the government of another country if that government furnishes assurances acceptable to the Administrator that the government:

"(A) will not further disclose the information without the consent of either the Administrator or the applicant or registrant which submitted the information; and

"(B) will not use the information to support any decision to grant any license, permit, or other action which allows the production, sale, or distribution of a pesticide under that country's laws.".

UNLAWFUL ACTS

SEC. 6. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out "or" at the end of clause (O);

(2) striking out the period at the end of clause (P) and inserting in lieu thereof ", or"; and

(3) adding a new subparagraph at the end thereof as follows:

"(Q) to discharge from employment or otherwise adversely affect the employment status of any person because of that person's exercising rights under this Act or filing complaints concerning alleged violations of this Act,".

PENALTIES

SEC. 7. Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) redesignating subsections (a)(3), (a)(4), and (a)(5) as subsections (a)(4), (a)(5), and (a)(6), respectively;

(2) adding a new subsection (a)(3) to read as follows:

"(a)(3) DISCLOSURE OF DATA TO PESTICIDE PRODUCERS.—Any person granted access to data pursuant to section 10(d) that violates the provisions of that subsection or who knowingly accepts data prohibited from disclosure under section 10(d) may be assessed a civil penalty by the Administrator of not more than $100,000 for each document or study obtained or used in violation of section 10.";

(3) amending subsection (a)(4), as redesignated, to read as follows:

"(a)(4) DETERMINATION OF PENALTY.—In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that a violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, or in the case of a violation as described in paragraph 3 of this subsection did not cause significant harm to the registrant that originated the data, the Administrator may issue a warning in lieu of assessing a penalty."; and

(4) amending subsection (b)(3) to read as follows:

"(b)(3) DISCLOSURE OF INFORMATION.—

"(A) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than $100,000, or imprisoned for not more than 3 years, or both.

"(B) Any person granted access to data under section 10(d) that knowingly allows the data to be sold or otherwise made available contrary to the provisions of section 10 of this Act to any other person engaged in the production of pesticide products or any employee or agent thereof in violation of such section shall be fined not more than $100,000 or imprisoned for not more than 1 year or both.

"(C) Any officer or employee of the United States or any State or former officer or employee of the United States or any State, who, by virtue of such employment or official position has obtained possession of, or has access to material the disclosure of which is prohibited by section 10, and who, knowing that disclosure of such material is prohibited by such section, willfully discloses the material in any manner to any person not entitied to receive it, shall be fined not more than $100,000 or imprisoned for not more than 1 year, or both. For the purpose of this subparagraph, any contractor with the United States who is furnished information as authorized by section 10(e), or any employee of any such contractor, shall be considered to be an employee of the United States.

"(D) Section 1905 of title 18 of the United States Code shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act. Nothing in this Act shall preempt any civil remedy under State or Federal law for any disclosure wrongful under section 10.".

JUDICIAL REVIEW

SEC. 8. Section 16 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) Any person claiming to be aggrieved by misuse of a pesticide may bring suit in a United States district court having jurisdiction of the parties for damages, equitable relief, and reasonable attorney's fees and costs, including expert witness fees.".

EXPORTS

SEC. 9. Section 17(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Subject to the restrictions on disclosures of trade secrets as specified in section 10(d)(1) (A), (B), and (C), such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 of this Act and that could be used in lieu of such pesticide.".

STATE COOPERATION, AID, AND TRAINING

SEC. 10. Effective with the fiscal year beginning October 1, 1982, section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out in subsection (a) the second and third sentences; and

(2) adding at the end thereof a new subsection as follows:

"(d)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators during such fiscal year pursuant to subsection (c) of this section. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator.

"(2) There are also authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator.

"(3) The total amount authorized to be appropriated under paragraphs (2) and (3) of this subsection may not exceed $4,000,000 for each fiscal year. If funds sufficient to pay 50 percent of the costs under paragraph (2) or (3) of this subsection for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

"(4) States conducting training and certification programs under State plans shall coordinate such programs to assure that standards for certification of applicators of pesticides are attained and maintained as prescribed by the Administrator under section 4 of this Act.".

AUTHORITY OF THE STATES

SEC. 11. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection 24(a) to read as follows:

"(a)(1) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent that the regulation does not permit any sale or use prohibited by this Act.

"(2) If a State in regulating the sale or use of a federally registered pesticide or device in the State wishes health and safety data submitted for review in connection with a State registration or approval, the following shall apply:

"(A) With respect to data previously submitted in support of the Federal registration, the State may request the applicant to submit such data to the State for review, and if the applicant does not provide the State such data as is requested, the Administrator shall make the data available to the State, subject to the provisions of section 10. At the option of the State, the data may be obtained from the Administrator under the provisions of section 10 without first making the request to the registrant.

"(B)(i) A State may require submission of additional data with respect to any special local concerns relating to either an increased risk of any unreasonable adverse effect on the environment from the uses of such pesticide or device in the State, or a reduced efficacy of the pesticide or device in the State for the uses for which the application to the State is made: *Provided*, That the State shall give the applicant written notice of the purpose and justification of the requirement.

"(ii) In the case of a nonrestricted use or general use pesticide, as classified by the Administrator pursuant to section 3(d), except for pesticides utilized in the production of a commercial food, feed or fiber, crop, if the applicant wishes to contest the request for data described in clause (i) of this subparagraph, the applicant may submit the request to the Administrator for review. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The State's determination of a special local concern pursuant to this section shall not be subject to review by the Administrator but shall be subject to judicial review. The Administrator may overrule or modify the State request for additional data if the Administrator determines that the request is arbitrary or capricious, or determines that there exist sources of comparable data that would be available to the State for the purposes of satisfying its request and so notifies the State. The State and the applicant may submit to the Administrator any additional information pertaining to the data request. The Administrator shall publish in the Federal Register the basis for any determination that overrules or modifies the State request. A State may obtain judicial review of a decision by the Administrator to overrule or modify that State's data request. The applicant may seek judicial review of the determination of the State to require the data either before or after the matter has been submitted to the Administrator for review and the Administrator has made a determination: *Provided*, That the Administrator shall not be a party to any such action.

"(iii) In other cases involving special local concerns, any applicant that wishes to contest the request for additional data shall be subject to the provisions of State law.

"(C) Any request for data that does not relate to special local concerns as described in subparagraph (B) of this paragraph, and that was not previously submitted to the Administrator in support of the Federal registration shall be reviewable by the Administrator. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The Administrator may otherwise disapprove the request if the Administrator determines that the request is arbitrary or capricious or that there is no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. Any request for data under this subparagraph shall be submitted to the applicant and at the same time a copy shall be forwarded to the Administrator. If the Administrator has not taken any action within 60 days after receipt of the request for additional data, or 15 days after receipt by the Administrator of any additional information that may be requested of the State, approval of the request by the State shall be presumed. Any determination by the Administrator shall be final and not subject to judicial review.

"(3)(A) Except as to applications for which a State has requested health and safety data that relate to special local concerns as described in paragraph (a)(2)(B) of this subsection, if a State receives an application for a registration, the registration shall be granted pending further review if the

State has not affirmatively approved or disapproved the application within—

"(i) 60 days after receipt of the application or such lesser period as may be provided in State law, or

"(ii) if the application for registration involves a restricted use pesticide, or a general use pesticide utilized in the production of a commercial food crop, and the use is a new use of the pesticide or device within a State, or the pesticide contains a new active ingredient, for which the State has not previously granted approval, within 120 days or such lesser period as may be provided by State law after receipt of the application accompanied by all data, if any, required by State law and regulations at the time of application, or with appropriate reference to data previously submitted or cited by the applicant.

The provisions of this paragraph shall apply both to cases where the State has made a request for additional data, as well as to cases where the State had not made such a request.

"(B) With respect to applications for which a State has requested health and safety data that relate to special local concerns as described in subsection (a)(2)(B) of this section, a State may prohibit or restrict the sale or use of the pesticide or device within a State for which the application is made pending development, submission, and review of the health and safety data.

"(C) A State may not restrict the sale or use of a pesticide or device within the State for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request under paragraphs (2)(B) or (2)(C) of this subsection.

"(4) The district courts of the United States shall have jurisdiction to review determinations of the Administrator under this subsection and of the States under subsection (a)(2)(B)(ii) of this section that are subject to judicial review and shall have jurisdiction to enforce and to prevent and restrain violations of the provisions of paragraph (3)(A) of this subsection.".

SCIENTIFIC ADVISORY PANEL

SEC. 12. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending the fourth sentence to read as follows: "The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections."; and

(2) striking out in the penultimate sentence "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

SAFE WORKING CONDITIONS

SEC. 13. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) The Congress hereby finds and declares that it is necessary to provide for the safe use of pesticides and for safe working conditions for farmworkers, pest control applicators, and other persons handling, storing, or applying pesticides or working or living in and around pesticide treated areas. To this end, the Administrator shall adopt guidelines pursuant to the procedures set forth in this section as soon as practicable, but in no event later than one year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981 to establish minimum field reentry standards and posting of such standards, to protect other persons near pesticide treated areas, to establish minimum requirements for storing, warehousing, and disposal of pesticides and pesticide containers, and for the other purposes specified in the first sentence of this subsection.".

RECORDS CONCERNING STATE ENFORCEMENT

SEC. 14. Section 26(a)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(3) will keep such records necessary to provide an annual programmatic review showing compliance with paragraphs (1) and (2) of this subsection. Where emergency conditions exist, reports of emergency actions taken shall be provided to the Administrator at the earliest practical date.".

STATE ENFORCEMENT ACTION

SEC. 14. Section 27(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this Act. As soon as practicable after a complaint is filed and in no event later than 30 days, the State must commence appropriate investigative action, and if within 120 days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint of information to the extent authorized under this Act: *Provided*, That in the event of a complaint pertaining to a violation involving an alleged injury to an agricultural worker, the State must undertake an appropriate field investigative action as soon as possible, and in no event later than 5 days after receipt of the complaint, if a longer period of delay in investigative action would jeopardize the gathering of scientific information needed in order to substantiate or refute the substance of the complaint.".

○

EXHIBIT

AMENDMENT BY MR. FITHIAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 5203

On page 16, strike out all of new section 3(h)(1)(B) and insert in lieu thereof the following:

"(B) The term 'new use' means with respect to any active ingredient of a pesticide product, a use that has not previously been registered by the Administrator for any product containing such active ingredient, and that results in a change in the use pattern of such products from:

(a) food to nonfood use;

(b) nonfood to food use;

(c) outdoor to indoor use;

(d) indoor to outdoor use;

(e) terrestrial to aquatic use;

(f) aquatic to terrestrial use;

(g) nondomestic to domestic use;

(h) domestic to nondomestic use;

(i) a change from one of the crop groups listed below to another listed crop group: cereal grains (for hay, grazing, silage, forage, grain or other food or feed purposes); citrus; cotton, feed grains (for hay, grazing, silage, forage, grain or other food or feed purposes); forage crops (for hay, grazing, silage or forage); forest trees, and ornamentals; fruit trees, vines and other fruits; legumes (for hay, grazing, silage, forage, grain or other food or feed purposes and including peanuts and soybeans); livestock, poultry, and fish, including products or by-products; nut trees and bush nuts; rice; sugar cane and cane sorgnum; tobacco; and vegetables (leafy, root crops, and fruiting, including sugar beets and sunflower)."

(j) for nonfood uses, a change from one of the following pest groups to another group--insecticides, herbicides, fungicides, rodenticides, plant regulators, nemotocides, bactericides, algicides, and repellants.".

Exhibit 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 23 1982

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

Honorable George E. Brown, Jr.
Chairman, Subcommittee on Department
Operations, Research and Foreign Agriculture
Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to tell you that the Agency has actively pursued a consensus on new language for section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) since your February 4 hearing. We have met with members of the pesticide producing industry and affected labor, environmental, and public interest groups to work out language acceptable to all parties. The latest draft, which your staff has a copy of, reflects the Agency's views at this time. EPA is in the process of clearing the language through the Office of Management and Budget.

EPA believes that the proposed language strikes a fair balance between the industry's desire to protect valuable data from unfair competition, and the public's desire to have access to the information used by the Agency to reach regulatory decisions.

EPA and industry have not reached complete consensus on section 3. The Agency is willing to support changes in section 3 so long as they do not preclude reaching the Administration's goals for the pesticide program, including the commitment to streamline the process, reduce processing times, and reduce backlogs. EPA can go along with most features of the current draft of section 3, including extension of the period of exclusive use for new chemicals to 15 years, the replacement of "cite-all" with a minimum data set and the provisions for data development sharing in §3(c)(2)(B), provided that a reasonable approach is taken on the kinds of actions which would trigger exclusive use protection. EPA remains opposed, however, to extending exclusive use to any new use of old chemicals, as we believe the myriad of exclusive use "clocks," the requisite tracking by the Agency, and the likelihood of many disputes arising among companies as to who has marketing rights and who does not, will prevent us from reaching the Administration's goals. Nor will it provide the reductions in processing times that industry considers so essential.

We are opposed to exclusive use protection of data submitted to expand a registration from crop group to crop group. This provision would be a nightmare to administer, and we believe would quickly bog down the registration process. We remain opposed to exclusive use for all new uses; however, we could cope with giving protection to major new uses (as set forth in H.R. 5203). In other words, we are talking only about data pertaining to the active ingredient. Formulators would not be embroiled in data disputes so long as they purchase a registered technical product. Our objections to granting exclusive use to new uses have already been expressed in detail in Dr. Hernandez' November 17, 1981 letter, my testimony of February 4, 1982, and my letter to you of March 9, 1982.

Mr. Chairman, it concerns me that various members of the industry seem to have a different understanding of what protection they will get under the new use provisions under section 3. Some seem to believe that all testing done to expand a registration from one crop to another will be protected (actually only a fraction of such data are required by EPA to support a registration and these are the only data which would receive protection). Some believe that they can win exclusive use protection for data which are newly developed but required to support the original registration of an old chemical by submitting such data with a request to register a new use of the chemical. This is actually defensive data and would not be entitled to exclusive use. To put it bluntly, we question whether the reality of the amendments as implemented will match the expectations among the affected companies, and wonder whether we can "successfully" implement amendments which mean different things to different people and are understood by so few.

To reiterate some of our reasons for not adopting a crop to crop group approach:

- the crop groups proposed in language thus far are not consistent with the Agency's crop groups;
- the minor uses problem will be exacerbated, as certain manufacturers may have exclusive use of the data on the pilot crops used to support group tolerances;
- the ability to block registrants from putting crops on labels will result in inconsistent and fragmented labels for identical products, increasing confusion among

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> farmers and other users and leading to many technical misuses of products and a disrespect for the label instructions.

As we have continued to bring to the Committee's attention, we are also troubled by the potential impact of exclusive use for new uses on the registration standards program. We believe the efficiencies anticipated in the program will be lost if the data base is sprinkled with pockets of exclusive use data.

As you are aware, GAO has already criticized the use of emergency exemptions and state special local needs registrations to circumvent the section 3 registration process. The more burdensome and cumbersome section 3(c)(1)(D) is, the more pressure there will be on the states to issue or apply for other approvals.

In summary, we could support the new section 3 absent the provision providing exclusive use for new uses. If the Congress enacts that provision, we want to be clearly on record that we will not be able to provide the improved turnaround times for applications for registration which is our goal and which has been emphasized as a needed regulatory relief measure in industry communications to the Vice President's Task Force on Regulatory Relief. EPA is most uncomfortable in the role of arbitrator of market entry questions. We also want the Subcommittee to realize that in the future the Agency will have to deny or cancel registrations -- not because of health and safety concerns -- but because of data ownership disputes. It will divert Agency resources from health and safety reviews to interindustry disputes. In addition, it is a certainty that the Agency will have to expend considerable resources trying to explain to companies (and their Members of Congress) why products made with chemicals off patent, and which are just like many already on the market, and for which we have no health and safety concerns, cannot get a Federal registration because of data disputes.

We will be happy to discuss our position with you further at your convenience.

Sincerely,

John A. Todhunter, PhD

John A. Todhunter, Ph.D.
Assistant Administrator
for Pesticides and
Toxic Substances

Exhibit 4

AMENDMENT TO THE SUBSTITUTE TO H.R. 5203

Offered by Mr. Evans

On page 15, line 8

Immediately following the words "by regulation" insert the following words, "for inclusion on the label"

Modified language accepted by the subcommittee:

following ... on the label, "Provided That any such regulation that contains restrictions that apply to the applicator shall require an appropriate notice of such restrictions on the label."

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March 17, 1982

Exhibit (5)

PRINCIPLES FOR REGULATIONS IMPLEMENTING SECTION 10 AMENDMENTS

Purpose

EPA will promulgate regulations implementing the section 10 amendments for the purpose of providing complete access to copies of health, safety and environmental data by non-competitor members of the public, assuring the ability to communicate and make public information in such studies concerning health, safety and environmental effects, and at the same time protecting the proprietary interest of the owner or submitter of studies in preventing access to the data or unauthorized use of the data by competitors.

Procedures for Obtaining Access to Data

A person would be entitled to access to data (i.e., obtain a physical copy of data) as soon as he establishes that he is not acting on behalf of a pesticide producer or registrant and certifies that he will not improperly use or disclose the data.

The requester would submit to EPA his name, permanent address and name of employer. He must also certify that he is not (and is not employed by or acting on behalf of) a pesticide producer or registrant; that he does not seek the information, and will not use the information, for a commercial purpose in the pesticide business; that he will follow EPA's regulations for treatment of data he receives; that he will update this certification immediately should any statement in it change; and that if he subsequently becomes employed by or acts in behalf of a pesticide producer he will so advise EPA and return all information prior to commencing such employment. This information would be supplied to the data owner or submitter (hereinafter "submitter") during a 30-day verification period. (The 30-day verification period would run concurrently with, and not in addition to, any other notice or review period provided for the submitter). If the submitter establishes reasonable cause to believe that the requester is really acting on behalf of a pesticide producer, EPA may require more information from the requester to establish his bona fides. There would be no basis for administratively or judicially challenging the right of any person to obtain access to data other than whether the person is barred under section 10(f).

The 30-day verification period would apply only to each initial request by a particular requester for data of a particular submitter. Notice of subsequent requests involving the same requester and submitter would be sent to the submitter upon receipt by EPA, but no verification period would apply. Records of releases of data would be kept by EPA and made available to the submitter on request.

Procedures for Transfer and Copying

A person may obtain a physical copy of data directly from EPA by complying with the access procedures stated above. A principal purpose of granting access to a physical copy of a study is to permit an independent comprehensive scientific review or replication of the data. To prevent competitors from obtaining data from private citizens after release by EPA, certain restrictions would be placed on the transfer and copying of data. These restrictions are intended to prevent a competitor from obtaining a verbatim copy of a study, but would not restrict a person who lawfully obtains a study from EPA from communicating or making public information in a study concerning health, safety or environmental effects, with the exception of certain restrictions on innovative methods and technology.

In general, a study may be copied or transferred to another person only in accordance with the following procedures.

1. Membership Organizations. An organization may distribute verbatim copies of data to its members or consultants by submitting the identifying information and required certification for each such person, either with its initial application for data or at any time thereafter. The organization must ensure that the initial 30-day verification period, if applicable, has expired with respect to each such person. An organization that makes verbatim copies and distributes them in this manner must (1) take responsibility for safeguarding the

data and making sure that the required procedures are followed. (If the organization or a member to whom data are transferred violates the required procedures, the organization and its members could be subject to suspension or loss of data access privileges). Further, (2) the organization must number each copy transferred and submit to EPA a record showing to whom each such copy has been transferred and the date.

2. Transfer to Non-Members. The same procedures would apply to transfer of verbatim copies of data to non-members or other outside organizations, except that the custodian of the data must have possession of a copy of the non-member's certification to EPA (and the 30-day verification period for the certification must have expired). The transferror must assume the responsibility for assuring that the transfer and copying procedures have been complied with before transferring the data to a non-member. The non-member also may independently obtain a copy from EPA by submitting the required identifying information and certification.

3. Transfer in Emergency Situations. A custodian of data may, in certain extraordinary circumstances, transfer or disclose a physical copy of data to other persons immediately without such transferree having filed a certification and without the 30-day verification period having expired. Such a transfer may be made by executing a certification that (1) the data have been

transferred to medical personnel or their staff for use in connection with a medical emergency, and the transferee has executed or will execute as soon as practicable the required certification and file it with EPA; or (2) the data have been transferred to a person who seeks to use them to protect against a substantial risk of injury to health or the environment, and the transferee has executed the required certification and sent it to EPA.

When an emergency transfer is made, the transferror must take responsibility for ensuring that the required procedures are followed, and may face suspension or loss of access privileges for a violation.

4. Transfer to Unnamed Person for Peer Review. In unusual situations, data may be transferred to an unnamed person for the purpose of conducting a peer review of the data where public disclosure of the name of such person would inhibit his willingness to review and express an opinion concerning the data. Such transfer may be accomplished by making application to EPA which contains an additional certification that the transferror has attempted to obtain peer review of a study by a third party and that the third party is not willing to conduct a peer review and express an opinion on the study unless he is granted anonymity.

The third party would execute the required certification, which would be kept in a sealed envelope and delivered to the

Chief Administrative Law Judge of EPA. Notice of the proposed transfer also would be sent to the data submitter. The transferror shall take responsibility for assuring that all required procedures have been complied with, and that the data are retrieved from the third party when his review is completed. If at any time good cause is shown to suspect a leak of the data potentially attributable to the third party, the Chief Administrative Law Judge may open the sealed envelope, may disclose the name of the third party to the data submitter, and may investigate the circumstances surrounding the leak.

Publication

The purpose of the publication provision is to permit the free communication of information in studies concerning health, safety and environmental effects of pesticides. It contemplates that all such information may be publicly discussed, quoted and communicated without restriction (and without fear of penalties) but that verbatim copies of the study or pages thereof may not be published to prevent competitive commercial use of such documents. However, selected charts that consume an entire page of a study may be published verbatim by a person conducting a peer review of the study, but such publication shall be subject to control by the Administrator if it is abused and results in substantial verbatim publication. Innovative methods and technology would be subject to separate rules as provided below. There are no prior or subsequent notifications required for publication or communication of information in a study. The information can freely be given to anyone, without having to ascertain whether such person is a pesticide producer or has filed a certification with EPA. The mode of communication may be oral or written.

Innovative Methods and Technology

The regulations will establish separate procedures for the treatment of portions of data that contain innovative methods and technology. This category of information would be made available to certain members of the public under restrictions that are intended to afford a greater degree of protection to innovative scientific methods and technology that are developed by a company through the expenditure of its own resources, that are not known to the public at large, and that could provide an advantage to competitors if publicly disclosed. This kind of information will be made available to scientists and staff representatives acting on behalf of non-profit health, environmental or labor organizations in order to permit such persons to evaluate health, safety and environmental implications of such data, conduct an independent peer review or replicate a study. In order to protect the proprietary value of the innovative method or technology, it would not otherwise be made available to the public.

1. Definition

To fall within this category, an item of information must satisfy four criteria: (1) It must be an innovative scientific method or technology; (2) It must not be otherwise available to the public; (3) It must be used for the purpose of obtaining product chemistry, environmental chemistry, residue chemistry, or metabolism data; and (4) It must be capable of providing, if disclosed, a significant advantage to competitors of the submitter of the data. An innovative method of combining or using known technology in order to obtain such chemistry or metabolism data also would be eligible for this category.

This category of information will form only a minor part of the health, safety and environmental effects data submitted to the Administrator. It could include, for example, novel techniques and combinations of equipment used to perform a radioassay of radioactive carbon dioxide or to isolate and identify a metabolite. It would not include test methods or technology described or referenced in the EPA's registration guidelines, or in the scientific literature. Test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife are considered to be widely known and are not included in this category. Except for those portions of a study that describe a novel method or technology, the remainder of the information in a study, including results, discussions, conclusions and non-novel test methods, would be made available conclusions and non-novel test methods, would be made available in the same manner as other data. To the extent that a company has discovered an innovative composition of matter, such as a molecular structure for a new compound with potential usefulness as a pesticide that is not known to other companies and could provide a competitive advantage, this information also could be protected under this category.

A data submitter will be required to mark any portion of a study that consists of an innovative method or technology at the time of submission to the Administrator. A dispute as to the propriety of the classification of information in this category may be initiated by the Administrator or any person to whom the information is made available, and such dispute shall be handled in the same manner as a dispute as to whether information is properly classified under section 10(d)(1)(A), (B) or (C).

2. Procedures

Innovative methods and technology shall be made available to scientists and staff representatives acting on behalf of non-profit health, environmental or labor organizations who wish to conduct an independent peer review or replicate a study. To accomplish these purposes, such persons may meet or communicate with each other regarding the data but may not disclose the innovative methods or technology to the general public. Such persons may communicate with the Administrator and in judicial or administrative proceedings with respect to the innovative methods and technology and may request the Scientific Advisory Panel to review the data. The Panel could then review the data in a proceeding in which such persons would participate to determine whether the method or technology raises concerns as to health, safety or environmental effects. If the Panel so finds, it may make appropriate recommendations to the Administrator, and also may recommend that the method or technology be made available to the public in the same manner as other data, if this is necessary in the public interest.

In all other respects, such scientists and representatives who are given access to this information should be permitted to make use of the information in any reasonable manner in order to accomplish the purposes of peer review or replication, under reasonable conditions that will prevent the disclosure of the innovative methods and technology to the general public.

Safeguarding Information

A person who receives data from EPA would be required to use ordinary reasonable care to safeguard the copies and prevent improper disclosure. The recipient would be called upon to use the same kind of care that would be used to protect any valuable item. For example, the copies of data would be required to be kept in a locked file drawer or locked office when they are not

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being used. These conditions for safeguarding the data would be non-oppressive and not financially burdensome.

Penalties

[illegible] the purpose of the penalty provisions is to deter commercial use of data for competitive purposes, not to intimidate or deter the ordinary public from reviewing, critiquing and using the data.

The only penalty for violation of the law or regulations by a person not acting for a commercial purpose would be temporary or permanent loss of such person's right of access to the data. (For example, negligently losing a copy of data, or providing the data to a person who has not filed a certification with EPA where this is required.

The treble damage and civil and criminal penalty provisions apply only to violations that are performed to gain commercial use of the data.

Exhibit 6

AMENDMENT TO H.R. 5203 - COMMITTEE PRINT

Offered by Mr. Wampler

Page 52, line 9, after the word "country", insert "or its agents, or to an international organization of companies, only".

Page 52, line 12, strike "as well as a".

Strike lines 13 and 14 on page 52.

Strike lines 15 through 19 on page 53.

On line 20, page 53, strike "or any other" and insert "but shall not include any".

SECTION 10

"(g) INTERNATIONAL AGREEMENTS.-- Notwithstanding any other provision of law--

"(1) The Administrator shall not make available for public inspection any document or information concerning pesticides if (A) the Administrator obtained the document or information from the government of another country (or from an international organization of countries), (B) the government or international organization required the Administrator to agree not to disclose the document or information to the public as a condition of furnishing it to the Administrator, (C) the Administrator could not otherwise obtain the document or information, and (D) the government or international organization countinues to demand that the document or information not be made available for public inspection.

"(2) The Administrator may disclose information obtained under this Act to the government of another country or its agents, or to an international organization of countries, only under the following conditions. The information that may be so disclosed shall include all information that may be publicly disclosed under subsection (d)(1) of this section ~~as well as a general description of manufacturing processes (that does not include commercially valuable~~

~~details of such processes), and data concerning the safety of inert ingredients and a description of products that contain particular inert ingredients, but shall not include the percentages of deliberately added inert ingredients in a product or any other~~ but shall not include any information described in subsection (d)(1)(A), (B), or (C), or (d)(3) of this section.

The Administrator may make such disclosures if he executes an agreement with another country which furnishes assurances acceptable to the Administrator that the government:

(A) will not further disclose the information without the consent of either the Administrator or the submitter of the information; and

(B) will not allow the information to be used directly or indirectly to support any application for, or decision to grant, a license, permit, or other action which allows the production, sale, or distribution of a pesticide under any country's laws. The Administrator shall provide notice to affected persons and an opportunity for comment prior to entering into any such agreement with the government of another country.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 24, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Business

Subject: To set authorized ceilings for FmHA farm and rural development credit programs

Bill Nos. H.R. 5831

The Conservation, Credit, and Rural Development (Sub) Committee

met in Open Session at 9:45 am o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Jones, Tenn.
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Harkin
Mr. English
Mr. Panetta
Mr. Albosta
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts, Kans.
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.

Mr.
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Mr.
Mr.
Mr.

Staff present:

Bob Lowerre, Associate Counsel
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant

Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

Present to respond to questions:

Mr. Charles Shuman, Administrator, Farmers Home Administration, Department of Agriculture, Washington, D.C.

Statements Filed:

NONE

U.S. GOVERNMENT PRINTING OFFICE [illegible]

Wednesday, March 24, 1982
Subcommittee on Conservation, Credit
 and Rural Development
Business Meeting
To set authorized ceilings for
 FmHA farm and rural development
 credit programs
H.R. 5831

Action taken:

--Without objection, the Evans/English amendment to the English amendment relative to lease and sale of minerals agreed to.

--By a division vote of 9 yeas-2 nays, the English amendment, as amended, was agreed to

--By a rollcall vote of 11 yeas-8 nays, the English amendment relative to the deferral of loan repayments and the foregoing of foreclosures on loans agreed to

--By a unanimous voice vote the Gunderson amendment relative to defining "rural" and "rural areas" for the purpose of making rural development agreed to

--By a division vote of 5 yeas-2 nays the Gunderson amendment relative to grants to finance waste disposal and water facility loans agreed to

Mr. Jones called the meeting to order for the purpose of continuing marking up H.R. 5831, and recognized Mr. Glickman who offered an amendment (attached) relative to requiring the Farmers Home Administration to submit a quarterly report on specified loan information. Discussion occurred on whether the word "estimated" should be placed before the words "number and dollar value of loans..." where they appeared in the amendment. Mr. Evans suggested striking subsection (b) on page 2 of the amendment. Mr. Glickman had no objection to the change and by unanimous consent the Evans suggestion was agreed to. After more discussion, Mr. Glickman by unanimous consent withdrew his amendment and reserved the right to bring it up again this date after seeing the USDA format of reporting now in use.

Mr. English was recognized to offer an amendment (attached) relative to sale or lease of minerals under property securing loans. A general discussion followed, in which most Members particated. Mr. Evans suggesting striking the words "or other natural resources" on line 6 of the amendment. Mr. English suggested a revision of the Evans' language as follows:

> On line 5, after the word "of", add "oil and/or gas"; and
> On line 6, after the word "minerals" add a comma and strike the words "or other natural resources,"

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Mr. Evans informed the Members he would go along with this language and asked to reserve the right to continue this discussion in full Committee. There was no objection to his request or to the amendment. Mr. Evans moved the previous question and by a division vote of 9 yeas-2 nays, the English amendment as amended was agreed to.

Mr. English was recognized to offer a second amendment relative to the deferral of loan repayments and the foregoing of foreclosures on loans. Discussion occurred on whether this amendment would void action taken on the Daschle amendment on March 23. After the differences had been explained, Mr. Daschle moved the previous question. Mr. Roberts, Kansas, requested a roll call vote and the clerk was instructed to call the roll. The vote follows:

YEAS

1. Mr. Glickman
2. Mr. Daschle
3. Mr. Dorgan
4. Mr. Bowen (proxy to Mr. Jones)
5. Mr. Harkin
6. Mr. English
7. Mr. Richmond (proxy to Mr. Jones)
8. Mr. Albosta (proxy to Mr. Jones)
9. Mr. Jones
10. Mr. Napier
11. Mr. Roberts, S. Dak.

NAYS

1. Mr. Bedell (proxy to Mr. Jones)
2. Mr. Jeffords
3. Mr. Coleman (proxy to Mr. Jeffords)
4. Mr. Roberts, Kans.
5. Mr. Skeen
6. Mr. Morrison
7. Mr. Gunderson
8. Mr. Evans (proxy to Mr. Jeffords)

Thus, by a vote of 11 yeas-8 nays, the English amendment was agreed to.

Mr. Harkin was recognized to discuss an amendment (attached) relative to interest rates, after which he asked unanimous consent to withdraw it until the afternoon meeting because he had an appointment with a group of 4-H students. Without objection, the amendment was set aside.

Mr. Gunderson was recognized to offer an amendment (attached) relative to defining "rural" and "rural areas" for the purposes of making a rural development loan. After a brief discussion, Mr. Jones asked for a voice vote and the ayes unanimously prevailed. Thus, the amendment was agreed to.

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Mr. Gunderson offered a second amendment (attached) relative to grants to finance waste disposal and water facility loans. After a general discussion, Mr. Jones asked for a voice vote and announced the chair was in doubt as to the outcome. He asked for a division vote, and by a vote of 5 yeas-2 nays, the Gunderson amendment was agreed to.

Mr. Harkin returned to the meeting with the group of 4-H'ers and introduced them to the Members. They were welcomed by the Subcommittee.

Mr. Harkin explained his interest rate amendment which had been recently set aside. General discussion followed.

The Subcommittee adjourned at 12 noon to reconvene at 2:00 p.m. this date to continue marking up H.R. 5831.

Peggy Pecore
Peggy Pecore

AMENDMENT TO H.R. 5831

Offered by Mr. Glickman

On page 3, after line 10, insert the following:

"Sec. 2. The Consolidated Farm and Rural Development Act is amended by adding at the end thereof a new section 349 as follows:

"REPORTS

"SEC. 349. (a) Not later than one month following the end of each calendar quarter beginning with the quarter ending June 30, 1982, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the information specified below with respect to loans made, insured, or guaranteed for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, and economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978:

"(1) the number and dollar value of loans designated delinquent;

"(2) the number and dollar value of loans voluntarily liquidated;

~~"(3) the number and dollar value of loans involuntarily liquidated;~~

"(4) the number and dollar value of loans accelerated;

"(5) the number and dollar value of loans in the process of foreclosure;

"(6) the number and dollar value of loans foreclosed; and

"(7) the number and dollar value of loans on which any other adverse action was taken.

"(b) Each report submitted under this section shall, for each item designated in subsection (a), show the number of actions taken during the quarter to which the report applies and during the corresponding quarter in the previous year, as well as the cumulative totals of such actions as of such quarters. Each report shall provide the required information on a State-by-State basis and shall list such information separately for each type of loan specified in subsection (a), and within each such type, separately for loans made or insured and for loans guaranteed, and separately for regular loans and for loans made to low-income, limited resource borrowers.

"(c) In preparing the format of the report to be submitted under this section, the Secretary shall closely consult on a continuing basis with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, to ensure a common understanding of the terms employed in this section.

"(d) For purposes of this section --

"(1) 'loans designated delinquent' means loans with respect to which (i) the amount repaid is more than $10 less than the amount due under the repayment schedule, or (ii) any payment is not made within 15 days after the date the payment is due under the repayment schedule;

"(2) 'loans voluntarily liquidated' means loans with respect to which the borrower, on the borrower's own volition or under threat of foreclosure, and with the Secretary's agreement, has sold the property securing the loan and applied the proceeds against the loan indebtedness;

~~"(3) 'loans involuntarily liquidated' means loans with respect to which, under threat of foreclosure, the borrower has sold the property securing the loan and applied the proceeds against the loan indebtedness;~~

"(3) 'loans accelerated' means loans with respect to which the borrower is notified by the Secretary that, because of a default, all principal and interest under the loan is due and payable;

"(4) 'loans in the process of foreclosure' means loans which have been referred by the Secretary to the Office of the General Counsel of the Department of Agriculture for initiation of action to foreclose the loans and such action is not completed;

"(5) 'loans foreclosed' means loans with respect to which legal proceedings have been concluded to sell the property securing the loan, or the property securing the loans has been sold by the Secretary under the terms of the loan agreement; and

"(6) 'loans on which other adverse action was taken' means loans with respect to which the Secretary has, because of delinquency or default, taken an action against the borrower other than those described in any other paragraph of this subsection.

"(e) The provisions of this section shall be effective through September 30, 1985."

AMENDMENT TO H.R.5831

Offered by Mr. English

On page 3, after line 10, insert the following:

"Sec. 2. Section 316 of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof a new subsection (d) as follows:

'(d) The Secretary shall permit a borrower under this subtitle to use proceeds from the sale or lease of minerals or other natural resources, under the property securing the loan, to make prospective scheduled payments on the loan.

AMENDMENT TO H.R. 5831

Offered by Mr. English

On page 3, following line 10, insert the following:

"SEC. 2. Section 331A of the Consolidated Farm and Rural Development Act is amended by (1) inserting, before the text thereof, the designation '(a)', and(2) adding at the end thereof new subsections (b) and (c) to read as follows:

"(b) With respect to farm real estate, farm operating, and emergency loans, and loans made under the Emergency Agricultural Credit Adjustment Act of 1978, the Secretary is directed, during any period in which the agricultural sector in any State is suffering economic distress, to take action within the State with respect to the deferring of principal and interest and foregoing of foreclosure which the Secretary is authorized to take under subsection (a) of this section. For purposes of this subsection, a 'period in which the agricultural sector in any State is suffering economic distress' is a period (1) beginning on the date on which the total of forced liquidations and foreclosures, within a given fiscal year, of outstanding loans of the types described in the preceding sentence made, insured, or held by the Secretary in the State exceeds 1 per centum of all outstanding loans, of such types made, insured or held by the Secretary in the State, and (2) ending twelve calendar months thereafter.

"(c) Upon the expiration of such deferral of payment of principal and interest and foregoing of foreclosure by the Secretary, the Secretary shall make available to the borrower, upon the borrower's request, procedures whereby the loan can be reamortized or rescheduled to provide equitable repayment terms consistent with the borrower's farm and financial situation. Any such reamortized or reschedule loan shall bear interest at a rate not in excess of the rate of interest originally charged on the loan. Interest that accrues during the deferral period on the loan shall bear no interest during or after such period.

"SEC. 3. The provisions of section 2 of this Act shall become effective upon enactment."

Mr. Gunderson

Amend Section 306 (a)(7) of the Consolidated Farm and Rural Development Act to read:

> "As used in this title, the terms "rural" and "rural area" shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that (A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms "rural" and "rural area" may include any area in any city or town that has a population not in excess of twenty thousand inhabitants; and (B) for purposes of loans and grants for private business enterprises under sections 304(b), 310B, and 312(b), (c), and (d) the terms "rural" and "rural area" may include all territory of a State that is not within the outer boundary of any city having a population of twenty-five thousand or more and its immediately adjacent urbanized areas as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided*, That special consideration for such loans and grants shall be given to areas other than cities having a population of more than ten thousand."

JH372

AMENDMENT TO H.R. 5831

OFFERED BY MR. GUNDERSON

Page 3, after line 10, insert the following new sections:

SEC. 2. Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended--

(1) by inserting ''(A)'' after ''SEC. 306. (a)(1)'', and

(2) by adding at the end thereof the following new subparagraph:

''(B) The Secretary is authorized to make a grant to any association which received a loan made or insured under subparagraph (A) to finance a waste disposal or water facility if--

''(i) such association is unable to repay such loan without suffering great economic hardship, and

''(ii) the inability to repay such loan results from an unanticipated diminution in the aggregate amount of fees or revenue received by such association, caused by a substantial decline in population or commercial activity in the area served by such facility.

The proceeds of such grant may be used only to repay such loan.''.

SEC. 3. The amendments made by section 2 shall take effect on October 1, 1982, and shall apply to any association described in section 306(a)(1)(B) of the Consolidated Farm and Rural Development Act, as added by section 2(2) of this Act, without regard to whether the loan involved was received by such association before such effective date.

Offerred by Mr. Harkin

Interest Rate Amendment

Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act is amended by striking out

> "the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)"

and inserting in lieu thereof

> "80 per centum of the statewide nonmetropolitan median family income"

Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act is further amended by adding at the end thereof the following

> "The interest rate on such loans for facilities which do not qualify for the 5 per centum per annum interest rate provided herein, but in areas where the median family income of the persons to be served is not in excess of 100 per centum of the statewide nonmetropolitan median family income, shall not exceed 7 per centum per annum."

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 24, 1982

(Sub) Committee: Domestic Marketing, Consumer Relations and Nutrition

Meeting: Public Hearing

Subject: Food Stamp Program

Bill Nos. none

The Domestic Marketing, Consumer Relations and Nutriti(Sub) Committee met in open Session at 10:00 am o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. Richmond
Mr. Panetta
Mr. Coelho
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Hansen
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Also present:
Mr. de la Garza (ex officio)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Carolyn Cheney, Subcommittee Staff Director
Nancy Chapman, Staff Assistant
Lynn Gallagher, Staff Assistant
Bernard Brenner, Press Secretary
Wanda Worsham, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Mary C. Jarratt, Assistant Secretary of Agriculture for Food and Consumer Services
   Acc. by: Mr. William G. Boling, Budget Officer, Food and Nutrition Service
   Ms. Christy Schmidt, Office of Analysis and Evaluation, FNS
   Dr. Esther Winterfeldt, FNS
   Ms. Betty Peterkin, Numan Nutrition Center, USDA

2. Mr. John Graziano, Inspector General, U.S. Department of Agriculture
   Acc. by: Mr. John O. Leary, Director, Marketing and Consumer Program Division, OIG - Auditing
   Mr. Gerald W. Peterson, Assistant Inspector General - Auditing
   Ms. Mary O'Meara

3. Dr. Leon Ginsberg, Commissioner, West Virginia Department of Public Welfare and President Elect, American Public Welfare Association, Washington, D.C.

Statements Filed:

March 24, 1982
Domestic Marketing, Consumer Relations
and Nutrition Subcommittee
Public Hearing
Food Stamp Program

Chairman Richmond called the meeting to order at 10:00 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

At 12:10 p.m. the Chairman adjourned the hearing, to reconvene at 2:00 p.m. this same day.

Christine D. Abram

Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 24, 1982 -- afternoon

(Sub) Committee: Domestic Marketing, Consumer Relations and Nutrition

Meeting: Public Hearing

Subject: Food Stamps

Bill Nos. none

The Domestic Marketing, Consumer Relations & Nutrition (Sub) Committee met in open Session at 2:00 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Richmond
Mr. Glickman
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.

Staff Present:

Carolyn Cheney, Subcommittee Staff Director
Anita Brown, Staff Assistant
Nancy Chapman, Staff Assistant
Lynn Gallagher, Staff Assistant
Wanda Worsham, Staff Assistant
Christine Abram, Staff Assistant

Staff present:

Witnesses:

1. Mr. Henry Eschwege, Director, Community and Economic Development Division, General Accounting Office
   Acc. by: Mr. Brian Crowley
   Mr. Stan Sargol
2. Mr. Leland Hall, Director, Food Programs, Michigan Department of Social Services, Lansing, Michigan
3. Mr. James A. Krauskopf, Administrator, New York City Human Resources Administration, New York, New York
4. Mr. Ed Feaver, Director, Food Stamp Program, Florida Department of Health and Rehabilitative Services, Tallahassee, Florida
5. Mr. Barry Van Lare, Staff Director, Committee on Human Resources, National Governors' Association, Washington, D.C.

Statements Filed:

March 24, 1982
Domestic Marketing, Consumer Relations
and Nutrition Subcommittee
Public Hearing
Food Stamp Program

Chairman Richmond called the meeting to order at 2:00 p.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

At 3:40 p.m. the Chairman adjourned the hearing, to reconvene at 10:00 a.m. the following day, Thursday, March 25.

Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 24, 1982 - P.M.

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: BUsiness

Subject: To set authorized ceilings for FmHA farm and rural development credit programs

Bill Nos. H.R. 5831

The Conservation, Credit, and Rural Development (Sub) Committee met in Open Session at 2:10 p.m. o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Jones, Tenn.
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Harkin
Mr. English
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Napier
Mr. Skeen
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Lowerre, Associate Counsel
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

Present to respond to questions:

Mr. Charles Shuman, Administrator, Farmers Home Administration, Department of Agriculture

Statements Filed:

None

Wednesday, March 24, 1982 - P.M.
Subcommittee on Conservation, Credit,
and Rural Development
Business Meeting
To set authorized ceilings for FmHA
farm and rural development credit
programs
H.R. 5831

Action taken:

--by a voice vote the Harkin amendment relative to the poverty line for eligibility for subsidized loans for water and waste disposal unanimously agreed to

--by a voice vote the Harkin amendment relative to the poverty line for water and waste disposal grant assistance unanimously agreed to

--by a voice vote the Roberts, S. Dak./Wampler amendment relative to grants for third party technical assistance for identifying water and waste disposal problems in rural areas unanimously agreed to

--by a voice vote the Roberts, S. Dak./Wampler amendment to create a pre-development fund to help the most needy communities develop applications for water and waste disposal assistance unanimously agreed to

--by a voice vote the Glickman revised amendment relative to requiring the Farmers Home Administration to submit quarterly reports on specified loan information unanimously agreed to

--by a voice vote the Daschle amendment relative to utilizing a project selection system to determine which applicants for water and waste disposal assistance are selected unanimously agreed to

--by a unanimous rollcall vote of 21 yeas, H.R. 5831, as amended, ordered reported to the full Committee in the presence of a quorum

--by a voice vote the Jeffords motion to allow staff to make technical and clarifying corrections unanimously agreed to

Mr. Jones called the meeting to order and recognized Mr. Harkin to continue discussion of his amendment relative to eligibility for subsidized loans for water and waste disposal. (See minutes of March 25 A.M. for the amendment.) After a brief discussion, Mr. Harkin moved the adoption of his amendment. The Chairman asked for a voice vote and the amendment was unanimously agreed to.

Mr. Harkin offered an amendment relative to water and waste disposal grant assistance (attached). After he explained his amendment, Mr. Glickman moved the previous question. The Chairman asked for a voice vote and the amendment was unanimously agreed to.

Wednesday, March 24, 1982 - P.M.
Subcommittee on Conservation, Credit, and Rural Development
Business Meeting
To set authorized ceilings for FmHA farm and rural development credit programs
H.R. 5831

Mr. Roberts of S. Dak. was recognized to offer an amendment on behalf of Mr. Wampler and himself relative to grants for third party technical assistance for identifying water and waste disposal problems in rural areas. After the amendment was explained, Mr. Glickman moved the previous question. The Chairman asked for a voice vote and the amendment was unanimously agreed to.

Mr. Roberts of S. Dak. offered a second amendment on behalf of Mr. Wampler and himself relative to the creation of a pre-development fund to help the most needy communities in applying for water and waste disposal asistance. The amendment was briefly discussed. Mr. Skeen moved the previous question. The Chairman asked for a voice vote and the amendment was unanimously adopted.

Mr. Glickman was recognized to offer a revised version of his amendment (attached) relative to quarterly reporting by the Farmers Home Administration on specified loan information. The amendment was briefly discussed. Chairman Jones moved the previous question and asked for a voice vote. The amendment was unanimously adopted.

The Chairman recognized Mr. Daschle to offer an amendment (attached) regarding utilizing a project selection system to determine which applicants for water and waste disposal assistance are selected. After he explained his amendment, Mr. Daschle moved the previous question. The Chairman asked for a voice vote and the amendment was unanimously adopted.

Mr. Daschle informed the Members he had planned to offer an amendment regard the release of economic emergency loan money, but he would wait to see what actions were taken by the Department of Agriculture.

Mr. Jeffords moved to report H.R. 5831, as amended, to the full Committee. The Chairman asked for a voice vote and the motion was unanimously agreed to. Mr. Jeffords asked for a rollcall vote. The Clerk was instructed to call the roll, and the vote follows:

Wednesday, March 24, 1982 - P.M.
Subcommittee on Conservation, Credit,
and Rural Development
Business Meeting
To set authorized ceilings for FmHA
farm and rural development credit
programs
H.R. 5831

YEAS

1. Mr. Bedell (proxy to Mr. Jones)
2. Mr. Glickman
3. Mr. Daschle
4. Mr. Dorgan
5. Mr. Bowen (proxy to Mr. Jones)
6. Mr. Harkin
7. Mr. English
8. Mr. Fithian (proxy to Mr. Jones)
9. Mr. Panetta (proxy to Mr. Jones)
10. Mr. Richmond (proxy to Mr. Jones)
11. Mr. Albosta (proxy to Mr. Jones)
12. Mr. Jones
13. Mr. Jeffords
14. Mr. Coleman
15. Mr. Roberts, Kans. (proxy to Mr. Jeffords)
16. Mr. Napier (proxy to Mr. Mr. Jeffords)
17. Mr. Skeen (proxy to Mr. Mr. Jeffords)
18. Mr. Morrison (proxy to Mr. Jeffords)
19. Mr. Roberts, S. Dak.
20. Mr. Gunderson
21. Mr. Evans

Thus, by a unanimous vote of 21 yeas, the bill, as amended, was ordered reported to the full Committee in the presence of a quorum.

Mr. Jeffords moved to allow the staff to make the necessary technical and clarifying corrections to the bill, and the motion was agreed to by a voice vote.

The Chairman and Mr. Jeffords commended Mr. Shuman and his associates for their cooperation during this week's meetings.

The Subcommittee adjourned at 2:57 p.m., to reconvene at 9:30 a.m. on Tuesday, March 30, for the purpose of marking up legislation reauthorizing the Commodity Futures Trading Commission.

Peggy Pecore
Peggy Pecore

Offerred by Mr. Harkin

Grant Rate Amendment

Section 306(a)(2) of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following

> "The Secretary shall fix the grant rate for each project under regulations promulgated by the Secretary which shall provide for a graduated scale based solely upon community population and income level: Provided, That for communities having a population of fifteen hundred or less and a community income level below 80 per centum of the statewide nonmetropolitan median family income, the grant rate shall be the maximum rate permitted under this paragraph."

WAMPLE002

AMENDMENT TO H.R. 5831

Offered by Mr. Roberts on behalf of Mr. Wampler

Page 3, after line 10, insert the following new section:

SEC. 2. (a) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding at the end thereof the following new paragraph:

''(17)(A) The Secretary is authorized to make grants to private nonprofit organizations for the purpose of providing to such associations technical assistance and training--

''(i) to identify, and evaluate alternative solutions to, problems relating to the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas,

''(ii) to prepare applications to receive financial assistance for any purpose specified in paragraph (2) from any public or private source, and

''(iii) to improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

''(B) In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations which have experience in providing the technical assistance and training described in such subparagraph to such associations serving rural areas in which residents have low incomes and in which water supply systems or waste facilities are unhealthful.

''(C) If the Secretary receives a sufficient number of applications from eligible associations which request grants under subparagraph (A), the aggregate amount of grants made by the Secretary under this paragraph for any fiscal year shall be not less than an amount equal to 2 per centum of any amount appropriated to carry out paragraph (2) for such fiscal year.''.

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

WAMPLE003

AMENDMENT TO H.R. 5831

Offered by Mr. Roberts on behalf of Mr. Wampler

Page 3, after line 10, insert the following new section:

SEC. 2. (a) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding at the end thereof the following new paragraph:

''(17)(A) The Secretary is authorized to make payments, to associations described in paragraph (1) of this subsection which are reasonably likely to receive financial assistance under paragraph (1) or paragraph (2) of this subsection for community waste disposal and water facilities, for predevelopment costs incurred in connection with the planning and design of such facilities. Such costs may include the costs of drilling test wells and of preparing alternative engineering designs to determine the most feasible and economical method to improve the water supply or waste disposal system of the community involved.

''(B) For purposes of paragraph (1) and paragraph (2) of this subsection--

''(i) the amount of any payment received under subparagraph (A) with respect to a project by an association which receives, before the expiration of the 5-year period beginning on the date such payment is received, a loan under paragraph (1), or a grant under paragraph (2), to finance such project shall be treated as part of the amount of such loan or the amount of such grant, as the case may be, and

''(ii) the amount of any payment received under subparagraph (A) with respect to a project by an association which does not receive, before the expiration of the 5-year period beginning on the date such payment is received, a loan under paragraph (1), or a grant under paragraph (2), to finance such project shall be repaid to the Secretary as if such payment were a loan made under paragraph (1) of this subsection unless the Secretary waives the repayment requirement specified in this clause with respect to all or part of such amount.

''(C) If the Secretary receives a sufficient number of applications from eligible associations which request payments under subparagraph (A), the aggregate amount of payments made by the Secretary under subparagraph (A) in a fiscal year shall be not less than 5 per centum of any amount appropriated to carry out paragraph (2) of this subsection.

''(D) For purposes of section 346, each payment made under subparagraph (A) shall be deemed to be a loan unless and until such payment is offset against a grant or the Secretary waives the repayment of such payment, as provided in subparagraph (B).''.

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

AMENDMENT TO H.R. 5831

Offered by Mr. Glickman

On page 3, after line 10, insert the following:

"Sec. 2. The Consolidated Farm and Rural Development Act is amended by adding at the end thereof a new section 349 as follows:

"REPORTS

"SEC. 349. (a) Not later than one month following the end of each calendar quarter beginning with the quarter ending June 30, 1982, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the information specified below with respect to loans made, insured, or guaranteed for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, and economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978:

"(1) the estimated number and dollar value of loans designated delinquent;

"(2) the estimated number and dollar value of loans voluntarily liquidated;

"(3) the estimated number and dollar value of loans accelerated;

"(4) the estimated number and dollar value of loans in the process of foreclosure;

"(5) the estimated number and dollar value of loans foreclosed; and

"(6) the estimated number and dollar value of loans on which any other adverse action was taken.

(b) Each report submitted under this section shall provide the required information on a State-by-State basis and shall list such information separately for each type of loan specified in subsection (a), and within each such type, separately for loans made or insured and for loans guaranteed, and separately for regular loans and for loans made to low-income, limited resource borrowers.

"(c) In preparing the format of the report to be submitted under this section, the Secretary shall closely consult on a continuing basis with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, to ensure a common understanding of the terms employed in this section.

"(d) For purposes of this section --

"(1) 'loans designated delinquent' means loans with respect to which (i) the amount repaid is more than $10 less than the amount due under the repayment schedule, or (ii) any payment which is not made within 15 days after the date the payment is due under the repayment schedule;

"(2) 'loans voluntarily liquidated' means loans with respect to which the borrower, on the borrower's own volition, or under threat of foreclosure and with the Secretary's agreement, has sold the property securing the loan and applied the proceeds against the loan indebtedness;

"(3) 'loans accelerated' means loans with respect to which the borrower is notified by the Secretary that, because of a default, all principal and interest under the loan is due and payable;

"(4) 'loans in the process of foreclosure' means loans which have been referred by the Secretary to the Office of the General Counsel of the Department of Agriculture for initiation of action to foreclose the loans and such action is not completed;

"(5) 'loans foreclosed' means loans with respect to which legal proceedings have been concluded to sell the property securing the loan, or the property securing the loans has been sold by the Secretary under the terms of the loan agreement; and

"(6) 'loans on which other adverse action was taken' means loans with respect to which the Secretary has, because of delinquency or default, taken an action against the borrower other than those described in any other paragraph of this subsection."

"(e) The provisions of this section shall be effective through September 30, 1985."

Mr. Daschle

Project Selection System Amendment

Section 306(a) of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof a new paragraph (16) as follows

> "In providing financial assistance for water and waste disposal facilities under this section, the Secretary shall utilize a project selection system to determine which of the applicants for assistance meeting the basic requirements of this section shall be selected to receive assistance. Such project selection system shall provide for the objective and uniform comparison of requests for assistance (in the form of preapplications) on the basis of relative need as determined by the community's (A) income level; (B) size; and (C) severity of health hazards resulting from inadequate provision for the reliable supply of potable water or from inadequate means of disposing of waste. For purposes of this project selection system, each of these three factors shall be weighted equally."

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 25, 1982

(Sub) Committee: Department Operations, Research, & Foreign Agriculture

Meeting: Business Meeting

Subject: FIFRA Amendments; arming certain USDA employees

Bill Nos. H.R. 5203; H.R. 2035

The Department Operations, Research, & Foreign Agric. (Sub) Committee

met in open session at 9:55 am o'clock, in Room 1302 LHOB.

The following Members were present:

		Also present:
Mr. Brown (Calif.)	Mr. Wampler	Mr. de la Garza (ex officio
Mr. Bowen	Mr. Thomas	Mr.
Mr. Fithian	Mr. Roberts	Mr.
Mr. Panetta	Mr. Emerson	Mr.
Mr.	Mr. Evans	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subcommittee Staff Consultant
Jerry Jorgensen, Minority Consultant
Tom Adams, Staff Consultant
Gene Moos, Subcommittee Staff Director (Wheat, Soybeans and Feed Grains)
Christine Abram, Staff Assistant

Witnesses:

Dr. Edwin L. Johnson, Deputy Assistant Administrator for Pesticide programs, Environmental Protection Agency, was present to respond to questions from Members

Statements Filed:

March 25, 1982
Department Operations, Research, and
Foreign Agriculture Subcommittee
Business Meeting
FIFRA Amendments; arming certain USDA
employees
H.R. 5203; H.R. 2035

Action taken:

-- Brown motion to adopt an amendment providing remedies for violation of Employee Protection provisions of Section 12 approved by voice vote.

-- Brown request for permission for staff to make certain technical and conforming changes approved by unanimous consent.

-- Fithian amendment to Sec. 23 of FIFRA adopted by unanimous consent.

-- Brown motion to strike Sec. 24(a) of FIFRA rejected by a rollcall vote of 2 to 7.

-- Panetta amendment pertaining to judicial review agreed to by voice vote.

-- Bowen amendment to Section 12 agreed to by voice vote.

-- Panetta amendment to Bowen amendment agreed to by voice vote.

-- Thomas amendment to authorization of appropriations rejected by rollcall vote of 5 to 6.

-- Wampler motion to report the Committee Print offered in the nature of a substitute, as amended, to H.R. 5203, be reported to the full Committee with the recommendation that it do pass rejected by a tie rollcall vote of 6 yeas-6 nays.

-- Fithian motion to report the Committee Print offered in the nature of a substitute to H.R. 2035, to allow certain USDA employees to carry firearms approved by voice vote in the presence of a quorum.

Chairman Brown called the meeting to order at 9:55 a.m. for the purpose of continuing markup of H.R. 5203, the FIFRA Amendments, using as markup vehicle the Committee Print.

(For Exhibits 1 -- Committee Print -- through 6, please see Exhibits attached to the Minutes for the Department Operations, Research, and Foreign Agriculture Subcommittee of March 23, 1982.)

Mr. Brown's request for a motion to reconsider the vote on the Wampler amendment taken as the last business on March 23 received no response. Mr. Bor was therefore asked to proceed with his explanation of the Committee Print.

Mr. Bor called the attention of Members to some substitute pages for pages in the Committee Print, reflecting the changes that had been agreed to. These pages are appended to these Minutes as Exhibit 7. Mr. Fithian moved that the substitute pages be adopted as substitutes for those pages of the Committee Print; the motion was unanimously adopted by voice vote.

Discussion then centered on employee protection, a subject treated on page 56 of the Committee Print. Mr. Brown offered substitute language for that section of the bill appearing on page 56; following discussion, the motion was approved by voice vote. See Exhibit 8 for the text of this amendment.

Mr. Bor called the attention of the Members to another amendment which appears on page 62 of the Committee Print, amending Section 23 of FIFRA, dealing with cooperation with the states in training programs. There being no objections to the clarifying provision, discussion proceeded to amendments of Section 24(a) of FIFRA.

After explanation of this part of the Committee Print by Mr. Bor, Chairman Brown offered a motion to strike Section 24(a). Considerable discussion of the motion ensued, and a rollcall vote was requested by the Chairman. The vote follows:

	Yeas		Nays
1.	Mr. Panetta	1.	Mr. Bowen
2.	Mr. Brown	2.	Mr. Fithian
		3.	Mr. Wampler
		4.	Mr. Thomas
		5.	Mr. Roberts (Kansas)
		6.	Mr. Emerson
		7.	Mr. Evans

The motion therefore was defeated by a rollcall vote of 2 to 7.

Mr. Panetta raised the question of the lack of a Section 8 providing a private right of action in the Committee Print, as there had been a Section 8 in the initial bill's draft. He introduced as an amendment the text of the earlier Section 8 with certain words eliminated: ..."damages, reasonable attorney's fees, and costs including expert witness fees," thereby limiting private causes of action to suits for equitable relief. See Exhibit 9 for the text of the amendment. After some discussion, the amendment was approved by a voice vote.

Mr. Bowen then offered an amendment to Section 12, a copy of which is appended to these Minutes as Exhibit 10. After Mr. Bowen explained the amendment, the subcommittee approved the amendment by voice vote. Mr. Panetta then asked to strike the last sentence of the amendment, which states, "To the extent persons specified in the subsection are covered by the provisions of OSHA, the provision shall not apply," and add the following:

> "This subsection shall not apply to persons covered by standards or regulations issued under the Occupational Safety and Health Act prior to the date of enactment of the Federal Insecticide, Fungicide and Rodenticide Act Amentments of 1982."

After discussion the amendment was agreed to by voice vote.

Mr. Thomas offered an amendment to the Extension of Authorization for Appropriations. See Exhibit 11 for a copy of this amendment. After some discussion, a rollcall vote was requested by the Chair; the vote follows:

	Yeas		Nays
1.	Mr. Wampler	1.	Mr. Brown
2.	Mr. Thomas	2.	Mr. de la Garza (ex officio, proxy to Mr. Brown)
3.	Mr. Roberts, Kans. (proxy to Mr. Wampler)	3.	Mr. Richmond (proxy to Mr. Brown)
4.	Mr. Emerson	4.	Mr. Foley (proxy to Mr. Brown)
5.	Mr. Evans	5.	Mr. Bowen
		6.	Mr. Panetta (proxy to Mr. Brown)

The vote being 5 yeas to 6 nays, the motion by Mr. Thomas was defeated. Following the vote, Mr. Wampler explained for the record his agreement with Mr. de la Garza concerning voting ex officio in subcommittees.

Mr. Wampler moved that the Committee Print offered in the nature of a substitute, as amended, be reported to the full Committee with the recommendation that it do pass. After some discussion, a rollcall vote was ordered; the vote follows:

	Yeas		Nays
1.	Mr. Wampler	1.	Mr. Brown
2.	Mr. Thomas	2.	Mr. de la Garza (ex officio, proxy to Mr. Brown)
3.	Mr. Roberts, Kans. (proxy to Mr. Wampler)	3.	Mr. Richmond (proxy to Mr. Brown)
4.	Mr. Emerson	4.	Mr. Foley (proxy to Mr. Brown)
5.	Mr. Evans	5.	Mr. Bowen
6.	Mr. Fithian	6.	Mr. Panetta

The vote being a tie vote of 6 yeas to 6 nays, the motion failed of passage.

The subcommittee then proceeded to consideration of H.R. 2035, using as a markup vehicle an amendment in the nature of a substitute which conforms with recommendations of OMB and the Department of Justice: a copy is appended to these Minutes as Exhibit 12, Committee Print.

Mr. Fithian moved that the bill be ordered reported to the full Committee with the Administration-recommended changes. The motion was agreed to by voice vote. The staff was directed to prepare the necessary reports and other material to bring it up before the full Committee as expeditiously as possible.

Mr. Brown added that the report language should indicate the need for upgrading communications capability without specifying necessarily how it should be done.

There being no further business before the subcommittee, the Chair adjourned the meeting at 11:45 a.m. subject to the call of the Chair.

Christine D. Abram
Christine D. Abram

Exhibit 47

45

"Before disclosing any information under this section that was submitted prior to the effective date of interim final regulations promulgated pursuant to this subsection (other than information which has already been made available to a member of the public or which the data submitter has previously stated do not contain trade secret or commercial or financial information), the Administrator shall afford the submitter of the information a reasonable period of time, not to exceed 60 days from the date of receipt by the data submitter of a request by the Administrator, to identify any portions of the information the data submitter claims are described by clause (A), (B) or (C) of this paragraph and to substantiate such claims. If no claim is made (or if the claim is not ~~reasonably~~ substantiated) within the period afforded, the information shall be made available in accordance with this section. The provisions of subsection (c) of this section shall apply to disputes with respect to information which the Administrator finds not to be of the type described by clause (A), (B) or (C) of this paragraph";

(4) redesignating subsections (d)(2) and (d)(3) as subsections (d)(3) and (d)(4), respectively;

information in litigation and administrative proceedings under an adequate protective order. Such restrictions, conditions and procedures shall restrict use and disclosure of data only to the extent necessary to prevent use of the data by persons other than the data owner to obtain or maintain registrations (or other governmentally-required approvals) of pesticide products, and to prevent violations of subsection (f) of this section, in order to protect the proprietary rights of data owners against the use of their data by competitors as provided in this Act. The regulations shall be consistent with the statement of disclosure principles contained in ~~the report of~~ section ___ of the FIFRA Amendments of 1982 ~~the Committee on Agriculture, H.R. Rep. No. ___.~~ Notwithstanding any provision of this Act or of any other law, interim final regulations initially shall be promulgated and become effective within 60 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, and the provisions of section 25(a) of this Act shall not apply to the promulgation of such interim regulations. At least 15 days before signing the interim regulations in final form for publication in the Federal Register, the Administrator shall furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on

Agriculture, Nutrition, and Forestry of the Senate. The interim final regulations shall be superceded as soon as possible (allowing time for notice and comment) by final regulations. The provisions of this section and the regulations promulgated thereunder shall apply with respect to all data submitted to the Administrator, whether before or after the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

(B) Innovative Methods and Technology. For the purpose of this section, the term "innovative methods and technology" means innovative methods or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, environmental chemistry, residue chemistry, and metabolism data, and innovative compositions of

t are substantially different from known methods or technologies,

matter, and that, if disclosed, could provide a significant advantage to competitors of the submitter of the data. The regulations promulgated under paragraph (2)(A) of this subsection shall establish separate procedures for making informa-

In no event shall an item of data be considered an innovative method or technology for longer scientists acting on behalf of federal or state agencies, independent scientists working in the field to which the data pertain 49 (and otherwise qualified to receive data under subsection (F) of this section), and

tion concerning innovative methods and technology available to the public. The innovative methods and technology shall be made available to scientists and staff representatives acting on behalf of non-profit health, environmental or labor organizations seeking access to the data to conduct an independent peer review or replicate the study, but shall not otherwise be made available to the general public. The regulations shall establish procedures by which such scientists and representatives may communicate with each other and with the Administrator, and in judicial or administrative proceedings, concerning the innovative methods and technology without disclosing them to the public. If requested by such a scientist or representative, the submitter of the innovative methods and technology shall provide within 15 days a summary of the data to such requester for disclosure to the general public. If such summary is not timely provided, the data shall no longer be considered an innovative method or technology under this paragraph. Any person who is given access to an innovative method or technology for the purpose of peer review or replication may, after such review or replication has been conducted, request the Scientific Advisory Panel to review ~~the~~ such data. If the Panel finds that the method or technology is not innovative, is invalid, or should be disclosed because of ~~raises~~ concerns as to health, safety or the environmental, ~~effects,~~ it may make recommendations to the Administrator, including a recommendation that the method or technology be made available under paragraph (2)(A) of this subsection if necessary in the public interest, and if the Administrator concurs in such recommendations, the Administrator may make the method or technology so available. The Administrator's decision shall be regarded as final agency action reviewable under section 16(a) of this Act.

because

ection of

(6) amending subsections (f) and (g) to read as follows:

(f) DISCLOSURE TO PESTICIDE PRODUCERS.—Except as otherwise provided in this section, the Administrator shall not knowingly allow access to information submitted by an applicant or registrant under this Act to any employee or agent of any person engaged in, or who intends to engage in, the production or registration of pesticides or to any other person who intends to disclose involving the production, registration, distribution or sale of a pesticide,

to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that a violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty. In determining the amount of the penalty in the case of a violation as described in paragraph 3 of this subsection, or as described in section 10(i) of the Act, the Administrator shall consider only the gravity of the violation. In the case of a violation that was not perpetrated in furtherance of a commercial purpose, the only penalty shall be denial of further access to data. In the case of the willful commission in furtherance of a commercial purpose of an act prohibited by section 10(i) of the Act, the penalty shall include but not be limited to the cancellation of all registrations of such person and anyone on whose behalf that person was acting.

(4) amending subsection (b)(3) to read as follows:

"(b)(3) DISCLOSURE OF INFORMATION.—

"(A) Any person, who, with intent to defraud, uses or reveals information relative to

Regulations promulgated by the Administrator ~~March 17, 1982~~ under section — of this Act shall be consistent with the following principles:

PRINCIPLES FOR REGULATIONS IMPLEMENTING FIFRA ~~SECTION 10~~ AMENDMENTS of 1982 Concerning Section 10

Purpose

EPA will promulgate regulations implementing the section 10 amendments for the purpose of providing complete access to copies of health, safety and environmental data by non-competitor members of the public, assuring the ability to communicate and make public information in such studies concerning health, safety and environmental effects, and at the same time protecting the proprietary interest of the owner or submitter of studies in preventing access to the data or unauthorized use of the data by competitors.

Procedures for Obtaining Access to Data

A person would be entitled to access to data (*i.e.*, obtain a physical copy of data) as soon as he establishes that he is not acting on behalf of a pesticide producer or registrant and certifies that he will not improperly use or disclose the data.

The requester would submit to EPA his name, permanent address and name of employer. He must also certify that he is not (and is not employed by or acting on behalf of) a pesticide producer or registrant; that he does not seek the information, and will not use the information, for a commercial purpose in the pesticide business; that he will follow EPA's regulations for treatment of data he receives; that he will update this certification immediately should any statement in it change; and that if he subsequently becomes employed by or acts in behalf of a pesticide producer he will so advise EPA and return all information prior to commencing such employment. This information would be supplied to the data owner or submitter (hereinafter "submitter") during a 30-day verification period. (The 30-day verification period would run concurrently with, and not in addition to, any other notice or review period provided for the submitter). If the submitter establishes reasonable cause to believe that the requester is really acting on behalf of a pesticide producer, EPA may require more information from the requester to establish his bona fides. There would be no basis for administratively or judicially challenging the right of any person to obtain access to data other than whether the person is barred under section 10(f).

The 30-day verification period would apply only to each initial request by a particular requester for data of a particular submitter. Records ~~Notice of subsequent requests involving the same requester and submitter would be~~ maintained and made available ~~sent to the submitter upon receipt by EPA, but no verification period would apply.~~ Records of releases of data would be kept by EPA and made available to the submitter promptly on request.

and ~~to~~ permit medical evaluation, consultation and treatment.

Procedures for Transfer and Copying

A person may obtain a physical copy of data directly from EPA by complying with the access procedures stated above. ~~*~~ The principal purposes of granting access to a physical copy of a study ~~is~~ are to permit an independent comprehensive scientific review, permi ~~or~~ replication of the ~~data~~ study, To prevent competitors from obtaining data from private citizens after release by EPA, certain restrictions would be placed on the transfer and copying of data. These restrictions are intended to prevent a competitor from obtaining a verbatim copy of a study, but would not restrict a person who lawfully obtains a study from EPA from communicating or making public information in a study concerning health, safety or environmental effects, with the exception of certain restrictions on innovative methods and technology.

In general, a study may be copied or transferred to another person only in accordance with the following procedures.

1. Membership Organizations. An organization may distribute verbatim copies of data to its members or consultants by submitting the identifying information and required certification for each such person, either with its initial application for data or at any time thereafter. The organization must ensure that the ~~initial~~ 30-day verification period, if applicable, has expired with respect to each such person. An organization that makes verbatim copies and distributes them in this manner must ~~to~~ take responsibility for safeguarding the

data and making sure that the required procedures are followed. (If the organization or a member to whom data are transferred violates the required procedures, the organization and its members could be subject to suspension or loss of data access privileges). Further, the organization must number each copy transferred and submit to EPA a record showing to whom each such copy has been transferred and the date.

2. Transfer to Non-Members. The same procedures would apply to transfer of verbatim copies of data to non-members or other outside organizations, except that the custodian of the data must have possession of a copy of the non-member's certification to EPA (and the 30-day verification period for the certification must have expired). The transferror must assume the responsibility for assuring that the transfer and copying procedures have been complied with before transferring the data to a non-member. The non-member also may independently obtain a copy from EPA by submitting the required identifying information and certification.

3. Transfer in Emergency Situations. A custodian of data may, in certain extraordinary circumstances, transfer or disclose a physical copy of data to other persons immediately without such transferee having filed a certification and without the 30-day verification period having expired. Such a transfer may be made by executing a certification that (1) the data have been

transferred to medical personnel or their staff for use in connection with a medical emergency, and the transferree has executed or will execute as soon as practicable the required certification and file it with EPA; or (2) the data have been transferred to a person who seeks to use them in an administrative, judicial or legislative proceeding concerning the imminent use of a pesticide, ~~to protect against a substantial risk of injury to health or the environment,~~ and the transferree has executed the required certification and sent it to EPA.

When an emergency transfer is made, the transferror must take responsibility for ensuring that the required procedures are followed, and may face suspension or loss of access privileges for a violation.

4. Transfer to Unnamed Person for ~~Peer~~ Independent Scientific Review. In unusual situations, data may be transferred to an unnamed person for the purpose of conducting an ~~peer~~ independent scientific review of the data where public disclosure of the name of such person would inhibit his willingness to review and express an opinion concerning the data. Such transfer may be accomplished by making application to EPA which contains an additional certification that the transferror has attempted to obtain independent scientific ~~peer~~ review ~~of~~ a study by a third party and that the third party is not willing to conduct an ~~peer~~ independent scientific review and express an opinion on the study unless he is granted anonymity.

The third party would execute the required certification, which would be kept in a sealed envelope and delivered to the

Chief Administrative Law Judge of EPA. Notice of the proposed transfer also would be sent to the data submitter. The transferror shall take responsibility for assuring that all required procedures have been complied with, and that the data are retrieved from the third party when his review is completed. If at any time good cause is shown to suspect an ~~leak~~ illegal disclosure of the data potentially attributable to the third party, the Chief Administrative Law Judge may upon request convene a hearing to hand ~~open the sealed envelope,~~ may disclose the identity ~~name~~ of the third party to the data submitter ~~, and may investigate the circumstances surrounding the leak.~~ if the results of the hearing show that disclosure is warranted.

Publication

The purpose of the publication provision is to permit the free communication of information in studies concerning health, safety and environmental effects of pesticides. It contemplates that all such information may be publicly discussed, quoted and communicated without restriction (and without fear of penalties) but that verbatim copies of the study or pages thereof may not be published to prevent competitive commercial use of such documents. However, selected charts and tables that consume an entire page of a study may be published verbatim ~~by a person conducting a peer review of the study, but such publication shall be subject to control~~ but a person's ~~but~~ further access to data may be restricted or denied by the Administrator if it is found ~~that such publication~~ right ~~[illegible]~~ abused and results in substantial verbatim publication. Innovative methods and technology would be subject to separate rules as provided below. There are no prior or subsequent notifications required for publication or communication of information in a study. The information can freely be given to anyone, without having to ascertain whether such person is a pesticide producer or has filed a certification with EPA. The mode of communication may be oral or written.

Innovative Methods and Technology

The regulations will establish separate procedures for the treatment of portions of data that contain innovative methods and technology. This category of information would be made available to certain members of the public under restrictions that are intended to afford a greater degree of protection to innovative scientific methods and technology that are developed by a company through the expenditure of its own resources, that are not known to the public at large, and that could provide an advantage to competitors if publicly disclosed. This kind of information will be made available to scientists and staff representatives acting on behalf of non-profit health, environmental or labor organizations in order to permit such persons to evaluate health, safety and environmental implications of such data, conduct an independent peer review or replicate a study. In order to protect the proprietary value of the innovative method or technology, it would not otherwise be made available to the public.

scientists acting on behalf of federal or state agencies, independent

(4) It must be substantially different from known methods or technologies;

1. Definition

To fall within this category, an item of information must satisfy four criteria: (1) It must be an innovative scientific method or technology; (2) It must not be otherwise available to the public; (3) It must be used for the purpose of obtaining product chemistry, environmental chemistry, residue chemistry, or metabolism data; ~~and~~ (~~4~~ 5) It must be capable of providing, if disclosed, a significant advantage to competitors of the submitter of the data. ~~[illegible]~~ An item of data may not be considered an innov. method o technolog for longe than fiv yea afte the dat submis An innovative method of combining or ~~using~~ known technology in order to obtain such chemistry or metabolism ~~data also~~ would be eligible for this category.

It is intended that ~~[illegible]~~ ~~This~~ category of information will form only a minor part of the health, safety and environmental effects data submitted to the Administrator. It could include, for example, novel techniques and combinations of equipment used to perform a radioassay of radioactive carbon dioxide ~~or to isolate and~~ stet identify a metabolite. It would not include test methods or technology described or referenced in the EPA's registration guidelines, or in the scientific literature. Test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife are considered to be widely known and are not included in this category. Except for those portions of a study that describe a novel method or technology, the remainder of the information in a study, including results, discussions, conclusions and non-novel test methods, would be made available

~~conclusions and non-novel test methods, would be made available~~ in the same manner as other data. To the extent that a company has discovered an innovative composition of matter, such as a molecular structure for a new compound with potential usefulness as a pesticide that is not known to other companies and could provide a competitive advantage, this information also could be protected under this category. The protection would not extend to the identity of the pesticide's active ingredient, ~~[illegible]~~ degradation products

(except metabol or impuri

A data submitter will be required to mark any portion of a study that consists of an innovative method or technology at the time of submission to the Administrator, or for data already submitted, A dispute as to the propriety of the classification of information in this category may be initiated by the Administrator or any person to whom the information is made available, and such dispute shall be handled in the same manner as a dispute as to whether information is properly classified under section 10(d)(1)(A), (B) or (C).

at the ti access to data is requi

2. Procedures

Innovative methods and technology shall be made available to scientists and staff representatives acting on behalf of non-profit health, environmental or labor organizations who wish to conduct an independent peer review or replicate a study. To accomplish these purposes, such persons may meet or communicate with each other regarding the data but may not disclose the innovative methods or technology to the general public. Such persons may communicate with the Administrator and in judicial or

scientists acting - on behalf of federal or state agencies, is not innovative, is invalid, or should be disclosed if necessary in the public interest because of

administrative proceedings with respect to the innovative methods and technology and may request the Scientific Advisory Panel to review the data. The Panel could then review the data in a proceeding in which such persons would participate to determine whether the method or technology ~~raises~~ concerns as to protection of health, safety or the environment~~al effects. If~~ the Panel ~~so finds, it~~ may make appropriate recommendations to the Administrator, and ~~also~~ may recommend that the method or technology be made available to the public in the same manner as other data. ~~if this is necessary in the public interest.~~ If the Administrator concurs in such recommendation he may make the method or technology so available.

In all other respects, such scientists and representatives who are given access to this information should be permitted to make use of the information in any reasonable manner in order to accomplish the purposes of ~~peer~~ independent scientific review or replication, under reasonable conditions that will prevent the disclosure of the innovative methods and technology to the general public.

Safeguarding Information

A person who receives data from EPA would be required to use ordinary reasonable care to safeguard the copies and prevent improper disclosure. The recipient would be called upon to use the same kind of care that would be used to protect any valuable item. For example, the copies of data would be required to be kept in a locked facility ~~file drawer or locked office~~ when they are not being used. These conditions for safeguarding the data would be non-oppressive and not financially burdensome.

Penalties

For the purpose of the penalty provisions is to deter commercial use of data for competitive purposes, not to intimidate or deter the ordinary public from reviewing, critiquing and using the data.

The only penalty for violation of the law or regulations by a person not acting for a commercial purpose would be temporary or permanent loss of such person's right of access to the data (for example, negligently losing a copy of data, or providing the data to a person who has not filed a certification with EPA where this is required).

The treble damage and civil and criminal penalty provisions apply only to violations that are performed to gain commercial use of the data.

Exy. 817 1

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 5203

JUDICIAL REVIEW

SEC. 8. Section 16 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) Any person claiming to be aggrieved by misuse of a pesticide may bring suit in a United States district court having jurisdiction of the parties for ~~damages,~~ equitable relief. ~~and reasonable attorney's fees and costs, including expert witness fees.~~"

Exy. 817 2

Amendment by Mr. Bowen

On page 72, line 13, after the word "shall" and before the word "promulgate" insert the following phrase:

", if new regulations are found to be necessary," Exhibit # 2

Amendment to Amendment in the Nature of a Substitute

to H.R. 5203

Offered by Mr. Thomas

Page 74, Section 15, strike "$56,367,000" and "$59,750,000" and insert in lieu thereof the figures "$51,582,000" and "$54,676,900" respectively.

Explanation

1. The fiscal year 1983 EPA authorization figure of $51,582,000 was arrived at by taking the President's budget recommendation for EPA for fiscal year 1983 of $50,782,000 exclusive the allocation of $800,000 for pesticide research from the total of $21 million recommended by the President for all interdisciplinary research funding for FY 1983. The $800,000 is the same figure used to arrive at the authorization number contained in the Committee Print.

2. The fiscal year 1984 EPA authorization figure of $54,676,900 was arrived at by adding 6% to the FY 1983 authorization. This 6% method is the same process used in arriving at the FY 1984 figure in the Committee Print.

Leg. 317 #12

COMMITTEE PRINT

I

(As reported by the Subcommittee on Department
Operations, Research, and Foreign Agriculture
on March 25, 1982)

97TH CONGRESS
1ST SESSION

H. R. 2035

To authorize certain employees of the Department of Agriculture to carry firearms in the performance of their duties.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1981

Mr. KAZEN introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To authorize certain employees of the Department of Agriculture to carry firearms in the performance of their duties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That any employee of the Department of Agriculture designated by the Secretary of Agriculture—~~

~~(1) to carry out any law or regulation, or~~

~~(2) to perform any function in connection with—~~

~~(A) any Federal or State program, or~~

~~(B) any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia,~~

~~for the control, eradication, or prevention of the introduction or dissemination of animal diseases may carry a firearm, in accordance with rules issued by the Secretary of Agriculture, while engaged in the performance of such employee's official duties.~~

That employees of the United States Department of Agriculture designated by the Secretary of Agriculture and the Attorney General of the United States--

(1) to carry out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination of communicable disease of livestock or poultry into the United States, or

(2) to perform any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary,

may carry a firearm and use a firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary of Agriculture and the Attorney General of the United States, while such employees are engaged in the performance of the employees' official duties.

And amend the title to read as follows: To authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection.

Section 12 Unlawful Acts

[illegible]

(c) EMPLOYEE PROTECTION.

[illegible].—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(1) REMEDY.—(a) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(b) (1) Upon receipt of a complaint filed under paragraph ( ), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph ( ) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(b) (2) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(2) REVIEW.—(a) Any employee or employer adversely affected or aggrieved by an order issued under subsection (1) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

(b) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(3) ENFORCEMENT.—Whenever a person has failed to comply with an order issued under subsection (b) (2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(4) EXCLUSION.— This section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.

I

97TH CONGRESS
1ST SESSION

H. R. 2035

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any employee of the Department of Agriculture designated by the Secretary of Agriculture—

(1) to carry out any law or regulation, or

(2) to perform any function in connection with—

(A) any Federal or State program, or

(B) any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia,

for the control, eradication, or prevention of the introduction or dissemination of animal diseases may carry a firearm, in accordance with rules issued by the Secretary of Agriculture, while engaged in the performance of such employee's official duties.

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U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, March 25, 1982

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Meeting: Public Hearing

Subject: Food Stamp Program

Bill Nos. None

The Domestic Marketing, Consumer Relations, and Nutrition (Sub) Committee

met in Open Session at 10:00 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Richmond
Mr. Harkin
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Wampler,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
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Mr.
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Mr.

Staff present:

Carolyn Cheney, Subc. Staff Director
Lynn Gallagher, Staff Assistant
Anita Brown, Staff Assistant
Nancy Chapman, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

1. Mr. Robert Greenstein, Director, Center for Budget and Policy Priorities, Washington, D.C.
2. Panel: Religious Groups:

   Mr. Neill Richards, Hunger Coordinator, United Church of Christ and Past President, Interreligious Task Force on U.S. Food Policy, Washington, D.C.

   Ms. Lorette Picciano Hanson, Issues Analyst, Bread for the World, Washington, D.C.
   acc. by: Mr. Jim Strothman

   Dr. Annalou Dehavenon, urban and medical anthropologist, Director of Research, East Harlem Interfaith Welfare Committee, New York, New York

Statements Filed:

Reverend Donald A. Gall, Chairperson, Working Group on Domestic Hunger and Poverty of the National Council of the Churches of Christ in the USA

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Thursday, March 25, 1982
Subcommittee on Domestic Marketing,
Consumer Realtions, and Nutrition
Public Hearing
Food Stamp Program

Chairman Richmond called the meeting to order for the purpose of hearing aditional witnesses on the subject of the Food Stamp Program.

Mr. Greenstein's prepared statement was inserted in the record, and he responded to questions from Members as appearing in the record.

Members of the panel presented their statements, after which they responded to questions. Dr. Dehavenon was granted permission to submit a prepared statement for the record which will be held open for two weeks.

The Subcommittee adjourned at 11:50 a.m., to reconvene at 2:00 p.m. this date to hear remaining witness on this subject.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, March 25, 1982

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Meeting: Public Hearing

Subject: Food Stamp Program

Bill Nos. None

The Domestic Marketing, Consumer Relations, and / Nutrition **(Sub) Committee**

met in Open **Session at** 2:00 pm **o'clock, in Room** 1301 LHOB.

The following Members were present:

Mr. Richmond
Mr. Coleman
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
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Mr.

Staff present:

Carolyn Cheney, Subc. Staff Director
Dave Ebersole, Minority Consultant
Anita Brown, Staff Assistant
Lynn Gallagher, Staff Assistant
Nancy Chapman, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

1. Panel: Consumers

   Ms. Ellen Haas, Director, Consumer Division, Community Nutrition Institute, Washington, D.C.

   Mr. James Hacking, American Association of Retired Persons and National Association of Retired Teachers accompanied by: Ms. Jo Reed, Office of Legislation AARP, NART

2. Ms. Nancy Amidei, Food Research and Action Center, Washington, D.C.

3. Panel:

   Ms. Ruth Kobell, Legislative Assistant, National Farmers Union, Washington, D.C.

   Mr. Kenneth Peterson, AFL-CIO, Washington, D.C., accompanied by: Ms. Mary Logan, Assistant Director, Department of Social Security, AFL-CIO

Statements Filed:

Letter from Bakery Confectionery and Tobacco Workers Union

Wednesday, March 25, 1982
Subcommittee on Domestic Marketing,
Consumer Relations, and Nutrition
Public Hearing
Food Stamp Program

Chairman Richmond called the meeting to order and called the first panel of witnesses to the table for their prepared testimony, after which they responded to questions from Members of the Subcommittee.

Ms. Amidei summarized her prepared testimony, after which she demonstrated with groceries the actual amount a family of four might purchase for a week under the Thrifty Food Plan of the Department of Agriculture. She responded to questions from the Members.

The last panel of witnesses presented their testimony and responded to questions.

The Subcommittee adjourned at 3:10 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 30, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Business Meeting -- a.m.

Subject: Commodity Futures Trading Commission Reauthorization

Bill Nos. H.R. 5447 Committee Print

The Conservation, Credit, and Rural Development (Sub) Committee

met in open Session at 9:50 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Harkin
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Richmond
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Roberts (Ka.)
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr.
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Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
Bob Lowerre Associate Counsel
John Hogan, Minority Counsel
Bernie Brenner, Press Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Roger Allbee, Minority Consultant
Dave Ebersole, Staff Assistant

Witnesses:

The following represented the Commodity Futures Trading Commission and responded to questions concerning the legislation and the role and functions of the CFTC:

1. Hon. Philip McBride Johnson, Chairman, Commodity Futures Trading Commission

Statements Filed:

None

Tuesday, March 30, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
Commodity Futures Trading Commission
Reauthorization
H.R. 5447 Committee Print

Action taken:

-- By voice vote Glickman amendment to reauthorize CFTC for 4 years to English proposal to reauthorize CFTC for 6 years adopted.

-- English proposal, as amended, to reauthorize CFTC adopted.

-- By voice vote Glickman proposal on jurisdiction agreed to.

-- By unanimous voice vote Fithian-Evans pilot program proposal approved.

-- By show of hands vote of 1 yea-9 nays Coleman amendment to Bedell proposal on commodity pools not adopted.

-- By voice vote Bedell proposal on commodity pools approved.

-- By voice vote English amendment to section on role of States agreed to.

-- By voice vote Glickman amendment to section on role of States adopted.

-- Glickman motion to approve language, as amended, dealing with the role of States approved by voice vote.

-- By unanimous voice vote Evans amendment to Glickman motion on definition of commodity trading advisor approved.

-- By unanimous voice vote Glickman proposal, as amended, on definition of commodity trading advisor agreed to.

Chairman Jones (Tenn.) called the meeting to order for the purpose of considering legislation to reauthorize funding of the Commodity Futures Trading Commission and make other changes to the Act.

The Chairman called attention to the attached summary of testimony of hearings, as well as the attached Committee Print which will serve as the markup vehicle. For each issue the Committee Print shows current law and various legislative proposals which surfaced during the hearings. Explanations of both are also included in the print. Mr. Jones (Tenn.) advised that it would also be in order for individual members of the Subcommittee to offer amendments of their own which are not printed in the markup document. Chairman Jones announced that the Subcommittee will deal with issues as they appear in the print with Committee counsel explaining each issue as it is before the Subcommittee rather than spending time explaining the entire bill prior to consideration.

There was no objection to the procedure described by Chairman Jones (Tenn.). Mr. Glickman did reserve the right to go back and offer amendments to sections when action is taken by the Subcommittee that would require further amendment to sections previously considered. The Chairman assured him that all members would be able to offer such amendments.

Mr. English asked if staff could also describe action taken by the Senate on the various issues before the Subcommittee and there was no objection.

Counsel Bor was recognized to explain the provisions of the section on reauthorization of the CFTC. He explained that the CFTC recommended a 4-year bill, the industry a 6-year bill, and the Senate a 2-year bill.

The consensus of the Subcommittee favored a 4-year bill. Mr. English moved to accept the language on page 1, lines 9 through 12,of the Committee Print which would reauthorize the CFTC for 6 years. He stated that he offered the amendment in the hope that in conference the time would be split with the Senate and make the legislation a 4-year bill. Discussion occurred and several members expressed concern that if the House authorized a 6-year bill, the Senate might recede to the House position.

Mr. Glickman moved to amend the English proposal and adopt the language contained on page 1, lines 1 through 8, of the Committee Print approving the proposal of the CFTC as contained in H.R. 5447 for a 4-year reauthorization.

By a voice vote the Glickman amendment to the English proposal was approved. By a voice vote the English proposal, as amended, was adopted.

Counsel Bor explained the section on Jurisdiction beginning on page 2 of the Committee Print. Discussion occurred and Mr. Glickman moved to adopt the language on jurisdiction as contained in the Committee Print (page 3, line 1 through page 8, line 3). Discussion continued and by a voice vote the Glickman proposal was agreed to.

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Tuesday, March 30, 1982
Conservation, Credit, and Rural
  Development Subcommittee
Business Meeting -- a.m.
Commodity Futures Trading Commission
  Reauthorization
H.R. 5447 Committee Print

Mr. Fithian offered an amendment on behalf of himself and Mr. Evans to include the attached language following line 17 on page 9 of the Committee Print. The proposal would institute a pilot program to provide a system of putting a floor on commodity option transactions but not a ceiling. Discussion occurred and Chairman Jones (Tenn.) moved the adoption of the Fithian-Evans proposal. By a unanimous voice vote the amendment was adopted.

Counsel Bor explained the provisions beginning on page 9 dealing with commodity pools. Discussion occurred and Mr. Bedell moved to adopt the language contained on page 11, lines 1 through 14, of the Committee Print and recommended by the CFTC. Discussion continued and Chairman Jones reserved Mr. Jeffords' right to offer an amendment to the section.

Mr. Evans stated he felt the Committee report should make clear the intent of the Committee is not to take away a state's right on initial issuance of securities within the state as stated by Mr. Glickman.

Mr. Coleman offered a substitute motion to add to the Bedell language on page 12, lines 10 through 15, as recommended by the Association of the Bar of the City of New York. Discussion occurred and by a show of hands vote of 1 yea-9 nays the Coleman amendment was not approved.

Discussion continued and by a voice vote the Bedell motion was approved. Several members expressed concern over the language approved and expressed an interest in offering amendments in the full Committee to clarify the section.

Mr. Bor explained the provisions on page 12 of the Committee Print dealing with the role of states. Discussion occurred on the specific language of the CFTC proposal contained in H.R. 5447 on pages 13 and 14 of the Committee Print, as compared with the proposals of the North American Securities Administrators Association.

Mr. English moved to add after the second "or" on page 13, line 11, the following: ", except as otherwise specified by the Commission by rule or regulation any board of trade, exchange or market located outside the United States, its territories or possessions, or". Discussion occurred and by a voice vote the proposal was adopted.

Tuesday, March 30, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
Commodity Futures Trading Commission
Reauthorization
H.R. 5447 Committee Print

Mr. Glickman moved to amend the language of the Committee Print on page 13, line 5, after "(1)" by adding "criminal prosecution under". Discussion occurred and by a voice vote the amendment was adopted.

Mr. Glickman moved to adopt the language on role of States, as amended by himself and Mr. English. By a unanimous voice vote the motion was agreed to.

Counsel Bor explained the provisions of the Committee Print on page 15 on definition of commodity trading advisor. Mr. Glickman moved the adoption of the specific language recommended by the CFTC on pages 16 and 17.

Mr. Evans moved to amend page 17, line 4, by adding after "company" the following: "or any person acting as an employee thereof". By a unanimous voice vote the Evans amendment was approved.

The Glickman motion, as amended, was then approved by a unanimous voice vote.

At 11:55 a.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to consider additional amendments to the Commodity Exchange Act.

Glenda Temple

[COMMITTEE PRINT]

MARCH 23, 1982

Subcommittee on Conservation, Credit, and Rural Development

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REAUTHORIZATION

Current Law

(Section 12(d) of the Act (the "sunset" provision) provides for the expiration of authorization for CFTC appropriations on September 30, 1982.)

SEC. 12. (d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982.

Proposed Amendments

H.R. 5447 Futures Trading Act of 1982

("H.R. 5447")

(Provides for reauthorization of appropriations for CFTC until September 30, 1986. (Sec. 19).)

SEC. 19. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended—

(a) by amending subsection 12(d) to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this act such sums as may be required for each of the fiscal years beginning October 1, 1982 and ending September 30, 1986.";

Futures Trading Regulatory Improvements Act of 1982 ("Industry/National Futures Association Bill")

(Provides for reauthorization of appropriations for CFTC until September 30, 1988 (*i.e.*, 6 years). (Sec. 27.))

SEC. 27. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended by striking out "October 1, 1978, and ending September 30, 1982" and inserting in lieu thereof "October 1, 1982, and ending September 30, 1988".

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JURISDICTION

A. CFTC/SEC Accord

1. Futures Contracts and Commodity Option Transactions

Current Law

(Section 2(a)(1) of the Act confers exclusive jurisdiction on CFTC with respect to accounts, agreements (including options), and transactions involving contracts of sale of a commodity for future delivery. Except to the extent section 2(a)(1) confers exclusive jurisdiction on CFTC, SEC jurisdiction under the securities laws is not superseded or limited.

(Section 4c(b) of the Act confers CFTC plenary authority to regulate commodity option transactions not involving commodities specifically enumerated in section 2(a)(1) of the Act. Section 4c(c) of the Act generally bans such commodity options unless the CFTC provides Congress with documentation of its ability to regulate such transactions.

(Section 2(a)(8)(B)(i) of the Act requires CFTC to maintain communications with the Federal Reserve Board, the Treasury and the SEC regarding trading in futures contracts on securities or financial instruments.)

SEC. 2. (a)(1) For the purposes of this Act, "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. The word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations, and trusts. The word "commodity" shall mean wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in Public Law 85-839, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided*, That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option", "Privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 5 of this Act or any other board of trade, exchange, or market, and transactions subject to regulation by the Commission pursuant to section 19 of this Act; *And provided further*, That, except as hereinabove provided, nothing contained in this section shall (i) supercede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supercede or limit the jurisdiction conferred on courts of the United States or any State. Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade. * * *

SEC. 4c. (b) No person shall offer to enter into, enter into or confirm the execution of, any transaction subject to the provisions of subsection (a) of this section involving any commodity regulated under this Act, but not specifically set forth in section 2(a) of this Act, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call",. "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets.

(c) Notwithstanding the provisions of subsection (b) of this section, no person may, after the enactment of the Futures Trading Act of 1978, offer to enter into, enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission's proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting, at any time, documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade. Nothing in this subsection shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978: *Provided*, That this prohibition shall not apply to any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of the Futures Trading Act of 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof.

SEC. 2. (a)(8)(B)(i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies.

Proposed Amendments

H.R. 5447

(Continue CFTC exclusive jurisdiction over commodity futures contracts (including options on futures) except as provided below. No CFTC jurisdiction over options on securities, including any group or index thereon, or interest therein.)

(Continues CFTC exclusive jurisdiction on futures and options on futures involving exempted securities (other than municipal securities). Prohibits futures (or options on futures) on individual corporate bonds or securities, or municipal securities. (No such futures are presently traded, and none would be permitted until the appropriate allocation of regulatory authority is determined.) (Sec. 1(a) (2) and (4).)

(Specifically continues CFTC exclusive jurisdiction over futures contracts (and options on such contracts) on a group or index of securities (or any interest therein or based on the value thereof), and sets forth specific standards applicable to such contracts which must be met before designation. (Settlement must be by cash or by means other than a security (except an exempted security); trading shall not be readily susceptible to price manipulation; index must be broad based group of securities.) Provides for public comment and SEC consultation on applications. If the SEC objects to designation, provides for SEC oral hearing before CFTC, and upon CFTC designation over SEC objection, gives SEC right of judicial review. (Sec. 1(a)(4).)

(Specifically provides that nothing in the Act applies to options on foreign currency traded on a national securities exchange. (The effect of the proposal is to permit trading of options on foreign currency on both commodity exchanges and stock exchanges.))

SECTION 1. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) by redesignating subsection 2(a)(1) as subsection 2(a)(1)(A);

(2) by inserting in the third sentence of subsection 2(a)(1)(A), as so redesignated, the words ", except to the extent otherwise provided in subparagraph (a)(1)(B) of this section," after the words "exclusive jurisdiction";

(4) by adding a new subsection 2(a)(1)(B) to read as follows:

"(B) Notwithstanding any other provision of law—

"(i) This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the effective date of Public Law), including any group or index of such securities, or any interest therein or based on the value thereof.

"(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty) and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (of any interest therein or based upon the value thereof): *Provided, however,* That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

"(a) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the effective date of Public Law (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the effective date of Public Law);

"(b) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

"(c) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

"(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in subparagraph (ii) hereof, and shall consult with the Securities and Exchange Commission with respect to such designation. If, within fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of subparagraph (ii) hereof is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. In the event that such an oral hearing is held and the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of section 6(b) of this Act. In the event that, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

"(iv) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the effective date of Public Law (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the effective date of Public Law); or except as provided in subparagraph (ii) hereof, any group or index of such securities or any interest therein or based on the value thereof.".

SEC. 4. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding a new subsection (f) to read as follows:

"(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.".

North American Securities Administrators Association, Inc.

(Sec. 1.) Limits scope of CFTC exclusive jurisdiction to (1) option transactions within section 4c of the Act and (2) registration and designation of contract markets and clearing organizations and of sales personnel where accounts, agreements, and transactions involve futures contracts traded or executed on a contract market designated by CFTC.)

Section 2(a)(1) of CEA is amended by—

(a) deleting the word "exclusive" after the phrase "*Provided*, That the Commission shall have"; and

(b) inserting the following after the phrase "pursuant to section 19 of this Act;" ". . . and such jurisdiction shall be exclusive as to options transactions, as specified in section 4c of this Act, and as to commodity futures contract market or clearinghouse registration and as to commodity futures commission merchant, floor broker, dealer, agent or salesmen registration or licensing where open accounts, agreements, and transactions involve contracts for sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 5 of this Act;".

2. Commodity Pools

Current Law

(Section 2(a)(1) of the Act confers exclusive jurisdiction on CFTC with respect to transactions involving futures contracts. Except as section 2(a)(1) confers exclusive jurisdiction on CFTC, the jurisdiction of the SEC is not superseded or limited nor is the SEC restricted from carrying out its responsibilities under the securities laws.

(Sections 4m, 4n, and 4o of the Act establish a statutory framework for the regulation of commodity pool operators.)

See above for text of section 2(a)(1).

Sec. 4m It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifiteen persons and who does not hold himself out generally to the public as a commodity trading advisor. The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 14 of this Act.

Sec. 4n. (1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator may register under this Act by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations, prescribe as necessary or appropriate in the public interest, including the following:

(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions, or, if the applicant be an individual, of such individual; and the number of employees;

(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

(E) the basis upon which the applicant is or will be compensated; and

(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

(2) Each registration under this section shall expire on the 30th day of June of each year, or at such other time, not less than one year from the effective date thereof, as the Commission may be rule, regulation, or order prescribe, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

(3)(A) Every commodity trading advisor and commodity pool operator registered under this Act shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commisison or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers or participants, or prospective clients, subscribers, or participants.

(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

(4) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(5) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this Act denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(6) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function, or controlling person thereof—

(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

(ii) at the time of the issuance of such order, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

Proposed Amendments

H.R. 5447

(Makes explicit that the Act, including CFTC exclusive jurisdiction, does not affect the applicability of the pertinent provisions of the Federal securities laws of 1933 and 1934 governing securities issued to the public by commodity pools. (In their joint explanatory statement the SEC and CFTC indicated that this provision "would not affect the exclusive jurisdiction granted by the CEA with respect to state regulation.") (Sec. 9; see also Sec. 20(b)))

SEC. 9. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended—

(a) by redesignating existing section 4m as subsection 4m(1); and

(b) by adding a subsection 4m(2) to read as follows:

"(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.".

Association of the Bar of the City of New York

(Amends H.R. 5447 to expressly preclude qualification or substantive regulation of commodity pools by the States under their Blue Sky laws.)

SEC. . Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—

(1) adding a subsection 4m(2) to read as follows: "(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool, provided, however, that the provisions of this Act shall preclude the qualification or substantive regulation of commodity pools under the various laws of the several States dealing with the qualification or regulation of securities or otherwise in those States.".

(Underscored language is a recommended addition to the already proposed new subsection 4m(2) in H.R. 5447.)

B. ROLE OF STATES

Current Law

(Section 6d of the Act authorizes State officials to bring actions in Federal court to enjoin violations of, or to seek damages on behalf of their residents, for violations of the provisions of the Act or CFTC regulations.

(Section 6d(7) of the Act provides that the section does not preclude the right of the authorized State officials from proceeding in State courts on the basis of violations of general civil or criminal antifraud statutes.

(Section 12(a) authorizes CFTC cooperation with other regulatory authorities or persons.)

SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty

created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, the administrator of the State securities laws, or other duly authorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) For purposes of this section, "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

SEC. 12. (a) The Commission may cooperate with any department or agency of the Government, and State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

Proposed Amendments

H.R. 5447

(Notwithstanding the Act's exclusive jurisdiction and preemption, permits any Federal or State law to be applied to activities and persons who do not obtain required registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the Act's regulatory structure such as off-exchange futures or other commodity investments. This provision does not apply to exchange-traded futures, authorized commodity options, and regulated leverage contracts which remain subject to exclusive CFTC regulation. (Sec. 19(b).))

SEC. 19. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended—

(b) by adding a new subsection 12(e) to read as follows:

"(e) Nothing in this Act shall supersede or preempt: (1) any Federal criminal statute; (2) any Federal or State statute, including any rule or regulation thereunder, that is applicable to any transaction in or involving any commodity, product, right, service or interest which is not conducted on or subject to the rules of a contract market or subject to regulation by the Commission under Section 4c or 19 of this Act; or

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(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation. The Commission is authorized to refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action or proceedings as the department or agency shall deem appropriate.".

North American Securities Administrators Association

(Adds a section 12(e) to the Act similar to section 19(b) of H.R. 5447, except permits application of state law to any person who "but for his failure or refusal to obtain registration or designation" would be under exclusive jurisdiction of CFTC, unless such person were a floor broker, clearinghouse, or contract market, therefore eliminating any need for inquiry as to whether such person is required to register with CFTC.)

Section 12 of the CEA be further amended by adding subsection (e) as follows:

"(e) Nothing in this Act shall supersede or preempt: (1) any Federal criminal statute; (2) any Federal or State statute, including any rule or regulation promulgated thereunder, that is applicable to any transaction in or involving any commodity, product, right, service or interest which is not conducted on or subject to the rules of a contract market or subject to regulation by the Commission under 4c or 19 of this Act or (3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person who, but for his failure or refusal to obtain registration or designation under the Act, would be under the exclusive jurisdiction of the Commission except as otherwise provided in subsection 7 of section 6d of the Act. The Commission is authorized to refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action or proceeding as the department or agency shall deem appropriate.".

North American Securities Administrators Association

(Expands section 6d(7) of the Act to permit a State, notwithstanding any provision in the Act, to proceed in a State administrative proceeding as well as State court, under a commodities or securities antifraud statute as well as a general antifraud statute, except with respect to a contract market, clearinghouse, or floor broker over which CFTC would retain exclusive jurisdiction.)

Section 6d(7) of the Act is amended by—

(a) striking the word "section" and inserting the word "Act";

(b) inserting the words "or in a State administrative proceeding" after the words "in State court;" and

(c) striking "." and adding "or of any general, commodities or securities antifraud statute of such State, except that the Commission shall have exclusive jurisdiction over a contract market, clearinghouse, or floor broker.".

DEFINITION OF COMMODITY TRADING ADVISOR

Current Law

(Section 2(a)(1) of the Act includes in the definition of a commodity trading advisor any person who, for compensation or profit, gives advice concerning the value of commodities or issues reports or analyses concerning commodities as part of a regular business even if the advice or report has no connection to futures, options, or leverage transactions.

(Section 2(a)(1) of the Act excludes from the definition of a commodity trading advisor certain persons who furnish trading advice via newspapers, magazines, and so forth of general circulation provided that such advice is solely incidental to the conduct of their business or profession. See also section 4m of the Act which excludes from registration requirements certain cash dealers and farm cooperatives.)

SEC. 2. (a)(1) The term "commodity trading advisor" shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commmodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession.

See above for text of section 4m.

Proposed Amendment

H.R. 5447

(Excludes from the definition of a commodity trading advisor any person who gives advice or issues reports or analyses only with respect to cash commodities or their value although may include within or exclude from the definition of commodity trading advisor persons as necessary to effectuate the purposes of the provision. (Sec. 1(a)(3).))

(Extends the current exclusions from the definition of a CTA to the electronic media and to trustees of certain pension plans subject to the Employee Retirement Income Security Act of 1974 if the furnishing of trading advice by such persons is solely incidental to the conduct of their business or profession. (Sec. 1(a)(3).))

SECTION 1. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(3) by amending the definition of the term "commodity trading advisor" in subsection 2(a)(1)(A), as so redesignated, to read as follows: "The term 'commodity trading advisor' shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract for future delivery of a commodity made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, of this Act, or

who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but does not include (i) any bank or trust company, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant or teacher, (iii) any floor broker of futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation or order: *Provided,* That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: *Provided further,* That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.".

EXECUTION OF FUTURES CONTRACTS ON DOMESTIC EXCHANGES; SALE OF CONTRACTS EXECUTED ON FOREIGN EXCHANGES

Current Law

(Section 2(a)(1) of the Act grants CFTC exclusive jurisdiction over transactions involving futures contracts traded or executed on any board of trade, exchange, or market regardless of whether such entity is a domestic board of trade designated as a contract market under the Act.

(Section 4 of the Act generally requires all transactions involving commodity futures contracts in the United States to be effected subject to the rules of boards of trade that have been designated by the CFTC as contract markets and to be effected by or through a member of a contract market.

(Section 4h(1) of the Act generally reiterates the requirements of section 4 by prohibiting any person from conducting any business in the United States to solicit or accept orders involving futures contracts unless such contracts are effected by or through a member of a contract market.)

See above for text of section 2(a)(1).

SEC. 4. It shall be unlawful for any person to deliver for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication any offer to make or execute, or any confirmation of the execution of, or any quotation or report of the price of, any contract of sale of any commodity for future delivery on or subject to the rules of any board of trade in the United States, or for any person to make or execute such contract of sale, which is or may be used for (a) hedging any transaction in interstate commerce in any commodity or the products or byproducts thereof, or (b) determining the price basis of any such transaction in interstate commerce, or (c) delivering any commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, except, in any of the foregoing cases, where such contract is made by or through a member of a board of trade which has been designated by the Commission as a "contract market", as hereinafter provided, and if such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided,* That each board member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the United States Department of Justice.

SEC. 4h. It shall be unlawful for any person—

(1) to conduct any office or place of business anywhere in the United States or its territories for the purpose of soliciting or accepting any orders for the purchase or sale of any commodity for future delivery, or for making or offering to make any contracts for the purchase or sale of any commodity for future delivery, or for conducting any dealings in commodities for future delivery, that are or may be used for—

(A) hedging any transaction in interstate commerce in such commodity or the products or by byproducts thereof, or

(B) determining the price basis of any such transaction in interstate commerce, or

(C) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof,

if such orders, contracts, or dealings are executed or consummated otherwise than by or through a member of a contract market;

Proposed Amendment

H.R. 5447

(Combines and simplifies the cited provisions of sections 4 and 4h(1) of the Act. (Sec. 2(a) and 6(a).)

(Expressly authorizes CFTC to promulgate regulations governing the offer and sale of foreign futures by any person located in United States. (Sec. 2(b).))

SEC. 2. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(a)(1) by redesignating section 4 as section 4(a);

(2) by striking out all those words following the word "to" the first time it appears, through and including the words "as hereinafter provided," by striking out the word "if" the first time it appears;

(3) by inserting after the word "to" the first time it appears the following: "offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States or its territories or possessions for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on a board of trade, exchange or market located outside the United States, its territories or possessions) unless: (1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity, (2) such contract is executed or consummated by or through a member of such contract market,"; and

(4) by striking out the word "if" and inserting in lieu thereof "(3)", and by striking out the word "board" after the words "*Provided,* That" and inserting in lieu thereof the words "contract market".

(b) by adding a new subsection (b) to read as follows:

"(b) In addition to its existing authority, the Commission may adopt rules and regulations governing the offer and sale by any person located in the United States, its territories or possessions, of any contract of sale of a commodity for future delivery which is made or to be made on a board of trade, exchange or market located outside the United States, its territories or possessions.".

Sec. 6. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended—

(a) by striking out everything following the word "person" and including "(2)";

LEGISLATIVE FINDINGS

(Section 3 specifies legislative findings on the existence of a national public interest in providing for regulation of futures transactions.)

Sec. 3. Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as "futures" are affected with a national public interest; that such transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce; that the prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce; that such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price; that the transactions and prices of commodities on such boards of trade are susceptible to speculation, manipulation, and control, and sudden or unreasonable fluctuations in the prices thereof frequently occur as a result of such speculation, manipulation, or control, which are detrimental to the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, and that such fluctuations in prices are an obstruction to and a burden upon interstate commerce in commodities and the products and byproducts thereof and render regulation imperative for the protection of such commerce and the national public interest therein.

Proposed Amendment

Industry/NFA Bill

(Specifies that findings of a national public interest in section 3 also apply to transactions in commodity options. Deletes findings that transactions and prices of commodities on boards of trade are susceptible to speculation, manipulation, and control which cause sudden or unreasonable detrimental price fluctuations constituting a burden on interstate commerce, and render regulation imperative for protection of such commerce and the public interest. (Sec. 2.))

SEC. 2. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended by—

(1) inserting "or "options" " after " "futures" " in the first clause;

(2) striking out in the second, third, and fourth clauses "that" each time it appears;

(3) striking out after "price" at the end of the fourth clause the semicolon and inserting in lieu thereof a period;

(4) striking out the fifth and sixth clauses.

SPECULATIVE LIMITS

Current Law

(Section 4a of the Act authorizes CFTC to set speculative limits by order after notice and hearing on the amount of trading in a given commodity that may be due or positions that may be held by any one person.)

SEC. 4a. (1) Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the Commission shall, from time to time, after due notice and opportunity for hearing, by order, proclaim and fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden. In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person. Nothing in this section shall be construed to prohibit the Commission from fixing different trading or position limits for different commodities, markets, futures, or delivery months, or different trading limits for buying and selling operations, or different limits for the purposes of subparagraphs (2)(A) and (B) of this section, or from exempting transactions normally known to the trade as "spreads" or "straddles" or "arbitrage" or from fixing limits applying to such transactions or positions different from limits fixed for other transactions or positions. The word "arbitrage" in domestic markets shall be defined to mean the same as a "spread" or "straddle". The Commission is authorized to define the term "international arbitrage".

(2) The Commission shall in such order fix a reasonable time (not to exceed ten days) after the order's promulgation; after which, and until such order is suspended, modified, or revoked, it shall be unlawful for any person—

(A) directly or indirectly to buy or sell, or agree to buy or sell, under contracts of sale of such commodity for future delivery on or subject to the rules of the contract market or markets to which the order applies, any amount of such commodity during any one business day in excess of any trading limit fixed for one business day by the Commission in such order for or with respect to such commodity; or

(B) directly or indirectly to hold or control a net long or a net short position in any commodity for future delivery on or subject to the rules of any contract market in excess of any position limit fixed by the Commission for or with respect to such commodity: *Provided*, That such position limit shall not apply to a position acquired in good faith prior to the effective date of such order.

(3) No order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission within one hundred eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this

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Act: *Provided*, That such terms shall permit the hedging of a person's anticipated production of seed quantities of a commodity and the hedging by the users of products of traded commodities as well as users of the commodities.

(4) This section shall apply to a person that is registered as a futures commission merchant or as a floor broker under authority of this Act only to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. This section shall not apply to transactions made by, or on behalf of, or at the direction of, the United States, or a duly authorized agency thereof.

Proposed Amendment

H.R. 5447

(Authorizes CFTC to establish speculative limits by rulemaking, as well as by order, after notice and hearing. Expressly permits contract markets and other licensed exchanges to set speculative limits for futures or option transactions. If the CFTC has established such limits, exchange limits may not be different except with CFTC approval. Makes a violation of speculative limits set by an exchange a violation of the Act if exchange limit has been approved by CFTC. (Sec. 3.))

SEC. 3. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(a) by striking out the word "order's" in subparagraph (2);

(b) by inserting the words "rule, regulation, or order" before the semicolon in subparagraph (2);

(c) by adding the words "rule, regulation, or" before the word "order" wherever it occurs;

(d) by striking out the words "within one hundred and eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974" in subparagraph (3); and

(e) by adding a new subparagraph (5) to read as follows:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission, of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities, traded on or subject to the rules of such contract market or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commodity option, the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not differ from the limits fixed by the Commission except with the approval of the Commission. It shall be unlawful for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation or resolution has been approved by the Commission.''.

Industry/NFA Bill

(Deletes findings that excessive speculation burdens interstate commerce. Limits CFTC authority regarding speculative limits to requiring contract markets to amend their rules regarding such limits if necessary to prevent or diminish manipulation, corners, or squeezes. CFTC may require such amendments by order after notice and a hearing on the record, and in connection therewith, CFTC must consider volume of trading, open interest, and opportunity for arbitrage between futures and other markets and make findings that, with respect to each such factor, such limit is necessary to prevent manipulation, corners, or squeezes. (Sec. 3.))

SEC. 3. Section 4a of the Commodity Exchange Act is amended by—

(1) striking out the first and second sentences in paragraph (1) (7 U.S.C. 6a (1)) and inserting in lieu thereof the following: "For the purpose of diminishing, eliminating, or preventing manipulation, corners, or squeezes of futures or options contracts traded on a contract market, the Commission may, from time to time, after due notice and opportunity for hearing on the record, require by order a contract market to amend its rules pertaining to limits on the amount of trading which may be done or positions which may be held by any person in such contracts. In connection with issuing any such order, the Commission shall take into consideration the following factors: (1) the volume or projected volume of trading in the futures or options contract, (2) the open interest in the futures or options contract, (3) the opportunity for arbitrage between the futures or options market for the contract and other markets; furthermore, any order directing a contract market to establish limits shall be accompanied by findings that such limits are necessary to prevent manipulation, corners, or squeezes, in light of each of the foregoing factors.";

(2) inserting in the fourth sentence in paragraph (1) (7 U.S.C. 6a(1)) "options contracts" after "futures,";

(3) striking out "fixing" each time it appears in paragraph (1) (7 U.S.C. 6a(1)) and inserting in lieu thereof "ordering the establishment of".

LARGE TRADER REPORTS

(Section 4i of the Act makes it unlawful for any person whose trades or positions in any cash commodity or future equal or exceed levels set by CFTC for contracts in that commodity to engage in futures trading unless such person keeps books and records relating to such transactions, files with CFTC required reports, and makes such books and records available for inspection by CFTC or Justice Department.)

SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Commission (1) whenever such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission; and (2) whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission. Such person shall keep books and records of all futures transactions and positions coming within the provisions of (1) and (2) hereof, and shall keep books and records of such cash or spot transactions in such commodity entered into, and inventories and purchase and sale commitments of such commodity held, in any month in which such person is required to make any report under the provisions of (1) or (2), as the Commission may require. Such books and records shall show complete details concerning all such transactions, positions, inventories and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.

Proposed Amendment

H.R. 5447

(Clarifies that even if CFTC eliminates routine reporting requirements for large traders, persons whose trades or positions in any cash commodity or future equal or exceed levels set by CFTC must keep books and records and allow inspection of books and records relating to futures and related cash transactions. (Sec. 7.))

SEC. 7. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows: "It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market (1) if such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and (2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission, unless, such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions within the provisions of (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of, such commodity. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.".

REGISTRATION

A. EXTENSION OF ASSOCIATED PERSON CATEGORY

1. Employees of Commodity Pool Operators and Commodity Trading Advisors

Current Law

(Sections 4m and 8a(1) of the Act require registration of commodity pool operators and commodity trading advisors, but generally do not require principals and employees of such entities to register with the CFTC.)

SEC. 4m. It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor. The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 14 of this Act.

SEC. 8a. The Commission is authorized—

(1) to register futures commission merchants and persons associated therewith as described in section 4k of this Act, commodity trading advisors, commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in form and manner to be prescribed by the Commission, which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing; and

Proposed Amendment

H.R. 5447

(Requires registration of principals and employees of commodity pool operators and commodity trading advisors as associated persons of such entities when the principals or employees are involved in solicitation of funds, securities or property for participation in a commodity pool or the supervision of persons so engaged. (Secs. 8(c), 8(e) and 17(b).)

SEC. 8. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended—

(b) by redesignating existing subsection 4k(2) as subsection 4k(4);

(c) by adding a new subsection 4k(2) to read as follows:

"(2) It shall be unlawful for any person to be associated with any commodity pool operator as a partner, officer, employee or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity pool operator, under this Act, with the Commission and such registration shall not have expired, been suspended (and the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity pool operator to permit such a person to become or remain associated with him in any such capacity if such commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided*, That any individual who is registered as a floor broker, futures commission merchant, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: *Provided further*, That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.";

(e) by adding a new subsection 4k(3) to read as follows:

"(3) It shall be unlawful for any person to be associated with any commodity trading advisor as a partner, officer, employee or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity trading advisor, under this Act, with the Commission and such registration shall not have expired, been suspended (and the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity trading advisor to permit such a person to become or remain associated with him in any such capacity if such commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided*, That any individual who is registered as a floor broker, futures commission merchant, commodity trading advisor or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: *Provided further*, That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.";

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended as follows:

(b) subsection 8a(1) is amended—

(1) by striking out the words "and persons associated therewith as described in section 4k of this Act";

(2) by inserting the words "associated persons of futures commission merchants," before the words "commodity trading advisors,";

(3) by inserting the words "associated persons of commodity trading advisors," before the words "commodity pool operators,";

(4) by striking out the word "and" after the words "commodity pool operators," and inserting in lieu thereof the words "associated persons of commodity pool operators, and";

(5) by inserting the words "the" before the words "form and manner"; and

2. Term

(Section 4k(2) of the Act generally requires associated persons of futures commission merchants to register at two-year intervals.)

(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe and shall be renewed upon application therefor, unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act; Provided, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation,

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or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.

Proposed Amendment

H.R. 5447

(Redesignates section 4k(2) as section 4k(4) and authorizes the CFTC to prescribe the effective period of the registration of associated persons of futures commission merchants, commodity pool operators, and commodity trading advisors. (Sec. 8(f).))

SEC. 8. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended—

(f) by amending subsection 4k(4) as so redesignated—

(1) by striking out "such" and "other" the first time they appear;

(2) by striking out the words "two years after the effective date thereof or";

(3) by striking out the words ", not less than one year from the date of issuance thereof," and everything after the word "prescribe"; and

(4) by inserting the words "as an associated person of a futures commission merchant, of a commodity pool operator, or of a commodity trading advisor" after the word "registered" the first time it appears; and

3. Agents.

Current Law

(Sections 4f(1), 4k(1) and 4k(2) of the Act contemplate that futures commission merchants may conduct sales efforts through agents who may not be required to register with the CFTC.)

SEC. 4f. (1) Any person desiring to register as futures commission merchant or as floor broker hereunder shall be registered upon application to the Commission, which application shall be made in form and manner to be prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged including, in the case of applications of futures commission merchants, the names and addresses of the managers of all branch offices and of all correspondents and agents engaged in soliciting or accepting on behalf of such applicants any orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any board of trade, and including also the names of its officers and partners, if a partnership, and of its officer, directors, and stockholders, as the Commission may direct, if a corporation. Such person when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to his business as the Commission may require. Each registration shall expire on December 31 of the year for which issues or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in this Act.

Sec. 4k. (1) It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person shall have registered, under this Act, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) nor revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent know or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked: *Provided*, That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe and shall be renewed upon application therefor, unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act; *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.

Proposed Amendments

H.R. 5447

(Requires "agents" to register with the Commission as asssociated persons of futures commission merchants, thereby making futures commission merchants responsible for the conduct of their agents. (Sec. 5(a) and 8(a).))

Sec. 5. Section 4f of the Commodity Exchange Act (7 U.S.C. 6f) is amended—

(a) by striking out the words "and of all correspondents and agents" and by striking out the words "after notice and hearing as prescribed in this Act" in subparagraph (1); and

Sec. 8. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended—

(a) by amending subsection 4k(1) as follows:

(1) by striking out the word "any" and inserting in lieu thereof the word "a" before the

words "futures commission merchant" each time they appear;

(2) by inserting the word "been" before the word "revoked" each time it appears;

(3) by striking out the word "nor" and inserting in lieu thereof ",";

(4) by striking out the words "or with any agent of a futures commission merchant", "or any agent of a futures commission merchant", and "or agent";

(5) by striking out the word "or" before the word "employee" and adding the words "or agent" after the word "employee"; and

(6) by adding the word "is" before the word "registered" and the words "is an associated person of such futures commission merchant" after the word "registered";

Industry/NFA Bill

(Provides for the registration of "agents" of futures commission merchants as "introducing brokers" and their employees as associated persons of introducing brokers. Generally introducing brokers would include persons who solicit or accept futures orders but who do not handle customer funds. (Secs. 11 through 14.)

(Makes other conforming changes to reflect establishment of these two new registration categories. (Secs. 9-16.) (Note: If adopted would need to amend section 8a(1) of the Act to authorize CFTC to register this new category of registrants.))

SEC. 9. Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after the sentence defining the term "futures commission merchant" and before the sentence defining the term "floor broker" the following:

"The words 'introducing broker' shall mean any person engaged in the business of soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee or secure any trades or contracts that result therefrom.".

SEC. 10. Section 4a of the Commodity Exchange Act is amended by—

(1) inserting ", introducing broker" after "futures commission merchant" in the first sentence of paragraph (4) (7 U.S.C. 6a(4));

(2) striking out "as" before "a floor broker" in the first sentence of paragraph (4) (7 U.S.C. 6a(4)).

SEC. 11. Section 4d of the Commodity Exchange Act is amended by—

(1) striking out "in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or including any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market" in the introductory clause (7 U.S.C. 6d) and inserting in lieu thereof "or introducing broker";

(2) inserting "or introducing broker" after "futures commission merchant" in paragraph (1) (7 U.S.C. 6d(1));

(3) inserting "if a futures commission merchant," after "such person shall" in paragraph (2) (7 U.S.C. 6d(2)).

SEC. 12. Section 4f of the Commodity Exchange Act is amended by—

(1) inserting ", introducing broker" after "futures commission merchant" in the first clause of paragraph (1) (7 U.S.C. 6f(1));

(2) striking out "as" before "floor broker" in the first sentence of paragraph (1) (7 U.S.C. 6f(1));

(3) striking out "and of all correspondents and agents engaged in soliciting or accepting on behalf of such applicants any orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any board of trade" after "branch offices" in the first sentence of paragraph (1) (7 U.S.C. 6f(1)).

SEC. 13. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by inserting ", introducing broker" after "futures commission merchant" in paragraph (1) (7 U.S.C. 6g(1)).

SEC. 14. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended by—

(1) striking out "agent of a futures commission merchant" the first time it appears in paragraph (1) (7 U.S.C. 6k(1)) and inserting in lieu thereof "introducing broker";

(2) striking out "any agent of a futures commission merchant" the second time it appears in paragraph (1) (7 U.S.C. 6k(1)) and inserting in lieu thereof "introducing broker";

(3) striking out "agent" the third time it appears in paragraph (1) (7 U.S.C. 6k(1)) and inserting in lieu thereof "introducing broker";

(4) inserting "as an asssociated person of such futures commission merchant or introducing broker" after "Commission" in clause (ii) of paragraph (1) (7 U.S.C. 6k(1));

(5) striking out "as a floor broker or futures commission merchant" in the proviso after clause (ii) of paragraph (1) (7 U.S.C. 6k(1)) and inserting in lieu thereof "under any other provision of this Act";

(6) striking out the period and inserting "; *And provided further,* That no person shall be required to register as an associated person of both a futures commission merchant and an introducing broker." at the end of paragraph (1) (7 U.S.C. 6k(1));

(7) inserting "as an associated person of a futures commission merchant, introducing broker, a commodity pool operator or a commodity trading advisor pursuant to this section" after "to be registered" in the first sentence of paragraph (2) (7 U.S.C. 4k(2)).

SEC. 15. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) inserting "introducing brokers," after "futures commission merchants" the first, third and fifth time it appears;

(2) inserting ", introducing brokers" after "futures commission merchants" the second, fourth, sixth and seventh time it appears.

SEC. 16. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by inserting ", introducing broker" after "futures commission merchant" the first time it appears.

B. TESTING

Current Law

(Section 4p of the Act gives CFTC authority to establish a proficiency examination requirement (as well as other fitness qualifications) to futures commission merchants, floor brokers and persons associated with them. Section 17(b)(4)(C) permits a registered futures association to require that applicants for membership in such association pass an examination.)

SEC. 4p. The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, futures associations registered under section 17 of this Act or contract markets may adopt written proficiency examinations to be given to applicants for registration as futures commission merchants floor brokers, and those persons associated with futures Commission merchants or floor brokers, and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of the customers of futures commission merchants and floor brokers.

SEC. 17. (b) An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

(4) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall become a member and no natural person shall become a person associated with a member, unless such person in qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience, and such other qualifications of such person as the associations finds necessary or desirable, and in the case of a member, the financial responsibility of such a member. For the purpose of defining such standards and the application thereof, such rules may—

(C) require persons in any such class to pass examinations prescribed in accordance with such rules.

Proposed Amendment

H.R. 5447

(Extends CFTC authority to require testing to all persons who are required to register with the CFTC. (Sec. 12.))

SEC. 12. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended—

(a) by striking out the words "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and by inserting in lieu thereof the words "persons registered with the Commission";

(b) by striking out the words "as the futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers";

(c) by striking out the word "the" before the word "customers" and by striking out the words "or futures commission merchants and floor brokers" after the word "customers"; and

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(d) by inserting the words ", clients, pool participants or other members of the public with whom such individuals deal" after the word "customers".

General Accounting Office (GAO)

(Extends CFTS authority to prescribe a testing requirement for commodity pool operators and commodity trading advisors. (Sec. 103)).

SEC. 103. In order to authorize the Commodity Futures Trading Commission or its designee to establish examination standards for commodity trading advisors and commodity pool operators, section 4p of the Commodity Exchange Act, as amended, is further amended by inserting the phrase "commodity trading advisors, commodity pool operators," before the phrase "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" where it appears in the first, second, and third sentences thereof; and by inserting the phrase "commodity trading advisors and commodity pool operators" at the end of the fourth sentence thereof.

C. ROLE OF STATES

Proposed Amendment

North American Securities Administrators Association

(Adds new section 4q to the Act which requires all registered or regulated futures commission merchants, commodity pool operators, commodity trading advisors and associated persons thereof to indicate to CFTC the States in which they are operating, and for CFTC to notify appropriate State official of registration. Gives appropriate State official standing to petition the Commission to suspend or revoke the registration of such registrants, in which event the CFTC must promptly determine if cause to revoke or suspend exists.)

"4q. The Commission shall require all futures commission merchants, commodity pool operators, commodity trading advisors and associated persons thereof, who are registered or regulated under section 4d, 4f, 4k, 4m, 4n, 4p, or 8a of the Act, to indicate to the Commission in which States they are operating as a floor commission merchant, commodity pool operator, commodity trading advisor or associated person thereof; and shall notify the appropriate official in those States so indicated of such registration for notice purposes. Any appropriate official from a State may petition the Commission to suspend or revoke the registration of any floor commission merchant, commodity pool operator, commodity trading advisor or associated person thereof who is operating within that State, whereupon the Commission shall promptly ascertain whether cause for suspension or revocation exists under section 8a, paragraph 2 (B) or (C) and, if it does exist, proceed under section 6(b).".

D. DELEGATION OF FUNCTIONS

Current Law

(Section 4k(3) of the Act permits CFTC to authorize a futures association to perform CFTC registration functions with respect to associated persons of futures commission merchants, but not with respect to other categories of registrants.)

SEC. 4k. (3) The Commission may authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.

Proposed Amendment

H.R. 5447

(Authorizes the CFTC to provide for the performance by any person of any portion of CFTC's registration functions subject to the Act (Sec. 17(h)); authorizes CFTC to require any registered futures association to undertake this reponsibility (Sec. 23(d)), thereby enabling the processing of registration applications to be performed by the National Futures Association. Deletes current section 4k(3) of the Act to reflect the proposed amendments. (Sec. 8(d).))

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended as follows:

(g) by striking out the period at the end of subsection 8a(9) and inserting in lieu thereof "; and"; and

(h) by adding a new subsection 8a(10) to read as follows:

"(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

SEC. 23. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended as follows:

(d) by adding a new subsection (o) to read as follows:

"(o) The Commission is authorized to require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with the rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

SEC. 8. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended—

(d) by deleting existing subsection 4k(3);

GAO

(Authorizes CFTC to delegate its registration functions to a registered futures association, and provides for appeals to the Commission of adverse

decisions with the appellant accorded an opportunity for a hearing on the record. (Secs. 102, 108.))

SEC. 102. In order to authorize the Commodity Futures Trading Commission to delegate its registration functions set out in section 8a (1)–(4) of the Commodity Exchange Act, as amended, and to allow appeals to the Commission from decisions of registered futures associations, section 8a of the Act is further amended by adding a new subsection (10) to read as follows:

"(10) to delegate to a registered futures association the registration functions listed in paragraphs (1) through (4) in accordance with rules approved by the Commission and subject to the procedural hearing requirements contained therein: *Provided, however,* That any person subject to an adverse decision by a registered futures association may appeal such decision to the Commission who shall afford such person an opportunity for a hearing on the Record.".

SEC. 108. (a) Section 4f of the Commodity Exchange Act, as amended, is further amended by adding a new paragraph (3) to read as follows:

"(3) The Commission may authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this chapter applicable to registrations granted by the Commission."; and

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(b) Section 4n of the Commodity Exchange Act, as amended, is further amended by adding a new subparagraph (7) to read as follows:

"(7) The Commission may authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this chapter applicable to registrations granted by the Commission.".

Industry/NFA bill

(Except in the case of floor brokers, authorizes a registered futures association, upon request by the association, to perform all registration functions required under the Act, generally in accordance with the rules of the association. Does not authorize CFTC to require the association to undertake this function. (Secs. 18, 19.))

Sec. 18. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by adding a new paragraph (3a) to read as follows:

> "(3a) notwithstanding the provisions of this section and of sections 4d, 4e, 4k, 4l–n, and 4p of this Act, to authorize a futures association registered under section 17 of this Act, upon request by the association, to perform all registration functions otherwise required under this Act; and the rules of such association, subject to the provisions of section 17, shall govern in lieu of otherwise applicable provisions and procedures of this Act, except with regard to registrations of floor brokers; and".

Sec. 19. Paragraph (3) of section 4k of the Commodity Exchange Act (7 U.S.C. 6k(3)) is repealed.

E. STATUTORY DISQUALIFICATION

1. Denial, Suspension or Revocation of Registration

Current Law

(Sections 8a(2) and 8a(3) of the Act generally require CFTC to offer opportunity for hearing in order to deny, suspend or revoke registration; sections 4n(5) and 8a(2) permit CFTC to deny, suspend or revoke registration without a hearing in limited circumstances (e.g., if person is subject to outstanding Commission order imposing sanctions.)

(Section 4n(6) of the Act enumerates certain grounds which may be a basis for denial, suspension, or revocation of a registration of a commodity trading advisor or commodity pool operator, such as conviction of a commodity or securities related crime, being subject to an injunction barring activity as a registrant, and being subject to a denial of trading order.)

SEC. 8a. The Commission is authorized—

(2) to refuse to register any person—

(A) if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked;

(B) if it is found, after opportunity for hearing, that the applicant is unfit to engage in the business for which the application for registration is made, (i) because such applicant, or, if the applicant is a partnership, any general partner, or, if the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, at any time engaged in any practice of the character prohibited by this Act or was convicted or a felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made any material false or misleading statement in his application or willfully omitted to state any material fact in connection with the application, or (ii) for other good cause shown; or

(C) in the case of an application for registration as futures commission merchant, if it is found after opportunity for hearing, that the applicant has not established that he meets the minimum financial requirements under section 4f of this Act: *Provided*, That pending final determination under clause (B) or (C), registration shall not be granted: *And provided further*, That the applicant may appeal from a refusal of registration under clause (B) or (C) in the manner provided in paragraph (b) of section 6 of this Act; and

(3) in accordance with the procedure provided for in paragraph (b) of section 6 of this Act, to suspend or revoke the registration of any person registered under this Act if cause exists under subparagraph (2) (B) or (C) which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under the provisions of paragraph (b) of section 6 of this Act and the period of denial specified in such order shall not have expired;

SEC. 4n. (5) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this Act denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(6) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function, or controlling person thereof—

(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

(ii) at the time of the issuance of such order, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

Proposed Amendments

H.R. 5447

(Establishes statutory disqualifications. (Sec. 17(c), (d), and (e).) Deletes sections 4n (5) and (6) of the Act as superfluous. (Sec. 10.)

(Authorizes CFTC to deny, condition, suspend, or restrict registration without a hearing or revoke registration after a hearing if any of 8 enumerated conditions are present, such as suspension or revocation of prior registration, a court order barring specified conduct involving securities or commodities, or a recent conviction for felonies such as bribery or bankruptcy fraud). (Sec. 17(c).)

(Authorizes CFTC to deny or condition registration after opportunity for hearing if any of 14 other less serious enumerated conditions are present, such as a previous violation of the Act, Federal securities laws or similar State or foreign law, conviction of certain commodity or securities related offenses, and failure to reasonably supervise another person. (Sec. 17(d), (e).)

(Authorizes the CFTC to condition registration or place restrictions on registrations. (Sec. 17(c), (d), (e).))

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended as follows:

(a) existing subsection 8a(3) is redesignated as new subsection 8a(4) and existing subsection 8a(4) is added to subsection 8a(1); * * *

(c) by amending subsection 8a(2) to read as follows:

"(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, to suspend, or to place restrictions upon the registration of, any person and with such a hearing as may be appropriate, to revoke the registration of any person—

"(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

"(B) if registration of such person in any capacity has been refused under the provisions of section 8a(3) of this Act within five years preceding the filing of the application for registration or at any time thereafter;

"(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, or concerning activity subject to Commission regulation under section 4c or 19 of this Act or concerning securities;

"(D) if such person has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any felony which (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 4c or 19 of this Act, or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

"(G) if, as to any of the matters set forth in paragraphs (A) through (F) of this subsection, such person willfully made any material false or misleading statement or omitted to state any material fact in his application; or

"(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this subsection; *Provided*, That for the purposes of sections 8a (2) and (3) of this Act, principal shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least ten percent of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission: *Provided,* That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this subsection in the manner provided in paragraph (b) of section 6 of this Act; and";

(d) by adding new subsection 8a(3) to read as follows:

"(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

"(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated or has consented to findings of a violation of, any provision of this Act, or any rule, regulation, or order thereunder (other than a violation set forth in subsection (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

"(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this Act, or of any of the statutes set forth in paragraph (B) of this subsection, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided,* That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this paragraph if (i) there have been established procedures, and a system for applying such procedures which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

"(D) such person was convicted of a felony other than a felony of the type specified in section 8a(2)(D) of this Act within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including a felony of the type specified in section 8a(2)(D) of this Act, more than ten years preceding the filing of the application;

"(E) such person was convicted within ten years preceding the filing of any application for registration or at any time thereafter of any misdemeanor which (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c or 19 of this Act or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(F) such person was debarred by any agency of the United States from contracting with the United States;

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in his application or in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

"(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this Act or under the rules or regulations of the Commission, such person has not established that he meets such minimum financial requirements;

"(J) such person is subject to an outstanding order denying, suspending, or expelling him from membership in a contract market, a registered futures association, or in any other self-regulatory organization, or barring or suspending him from being associated with any member or members of such contract market, association, or self-regulatory organization;

"(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities, or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

"(L) such person has associated with him any person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in section 8a(2) of this Act;

"(M) there is other good cause; or

"(N) any principal, as defined in section 8a(2) of this Act, of such person has been or could be refused registration:

Provided, That pending final determination under this subsection 8a(3), registration shall not be granted: *Provided further,* That such person may appeal from a decision to refuse registration or to condition registration made pursuant to the provisions of this subsection in the manner provided in paragraph (b) of section 6 of this Act; and";

(e) by amending subsection 8a(4), as so redesignated—

(1) by striking out the word "or," before the word "revoke" the first time it appears and inserting in lieu thereof a comma;

(2) by inserting the words ", or to place restrictions upon" after the word "revoke" the first time it appears;

(3) by striking out the words "subparagraph (2) (B) or (C)" and inserting in lieu thereof the words "section 8a(3)", and

(4) by adding the following proviso at the end thereof: "; *Provided,* That such person may appeal from a decision to suspend, revoke, or to

place restrictions upon registration made pursuant to the provisions of this subsection in the manner provided in paragraph (b) of section 6 of this Act; and";

SEC. 10. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections 4n(5) and 4n(6) in their entirety.

2. Responsibility for Associated Persons of Registrant

Current Law

(Section 4k(1) of the Act makes it unlawful for a futures commission merchant to allow an individual to be associated with the futures commission merchant as an associated person if the futures commission merchant knows or should know the individual is not a registered associated person.)

SEC. 4k. (1) It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status of performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person shall have registered, under this Act, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) nor revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked: *Provided*, That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

Proposed Amendment

H.R. 5447

(Prohibits a registrant from permiting a person to be an associated person of the registrant if he knows or should have known that the person is subject to a statutory disqualification. Also establishes as a ground for denial of or conditional registration that applicant has associated with him a person who is subject to a statutory disqualification. (Secs. 8(g) and 17(d).))

SEC. 8. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended—

(g) by adding a new subsection 4k(5) to read as follows:

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known, of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act.".

See above for text of section 17(d).

F. FINGERPRINTING

Current Law

(Section 8a(1) of the Act authorizes the CFTC to require the fingerprinting of applicants for registration and persons associated with them.)

SEC. 8a. The Commission is authorized—

(1) to register futures commission merchants and persons associated therewith as described in section 4k of this Act, commodity trading advisors, commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in form and manner to be prescribed by the Commission, which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing; and

Proposed Amendment

GAO

(Specifically authorizes a registered futures association to collect the fingerprints of its members and to submit those fingerprints to the FBI. (Sec. 104 of GAO.))

SEC. 104. In order to clarify section 17 of the Act, to expressly authorize a registered futures association to collect the fingerprints of its members, and to submit those fingerprints to the FBI, section 17(b)(4)(E) of the Act, as amended, is further amended by adding at the end thereof the following: "* * *, which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing.".

G. TEMPORARY LICE

Current Law

(The Act does not authorize the CFTC to grant temporary or provisional licenses.)

Proposed Amendment

H.R. 5447

(Authorizes the Commission to grant a six-month provisional license to applicants for registration in order to permit applicants for registration to begin work or to conduct business prior to completion of the fitness checks required for registration. (Sec. 17(b).))

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended as follows:

(b) subsection 8a(1) is amended—

(6) by adding a new proviso at the end of that subsection before the semicolon, as follows: ", and in connection therewith to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof: *Provided*, That notwithstanding any provision of this Act, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt: *Provided further*, That the term of any such temporary license shall not exceed six months from the date of its issuance";

CONTRACT MARKET RULES

A. ENFORCEMENT OF RULES BY CONTRACT MARKETS

Current Law

(Section 5a(8) of the Act requires each contract market to enforce those of its bylaws, rules, regulations, and resolutions which relate to contract terms and conditions or to other trading requirements if those rules have been approved by the CFTC pursuant to section 5a(12).)

SEC. 5a. Each contract market shall—

(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements, and which have been approved by the Commission pursuant to paragraph (12) of section 5a of this Act; and revoke and not enforce any such bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;

Proposed Amendments

H.R. 5447

(Requires contract markets to enforce all bylaws, rules, regulations and resolutions which must be enforced pursuant to any CFTC rule, regulation, or order, thereby codifying CFTC regulation 1.53, requiring enforcement of bylaws, rules, etc. in effect as of July 18, 1975, which have not been disapproved by the CFTC, and conforms section 5a(8) to the changes proposed to section 5a(12). (Sec. 13(a).))

SEC. 13. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended as follows:

(a) by amending subsection 5a(8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which (1) have been approved by the Commission pursuant to paragraph (12) of section 5a of this Act, (2) have become effective under such paragraph, or (3) must be enforced pursuant to any Commission rule, regulation or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;";

Industry/NFA Bill

(Codifies CFTC regulation 1.53 in the same manner as H.R. 5447 and conforms section 5a(8) to the proposed changes to section 5a(12) set forth below. (Sec. 5(1).))

SEC. 5. Section 5a of the Commodity Exchange Act is amended by—

(1) inserting "or which must be enforced pursuant to any Commission rule, regulation, or order" immedi-

ately after "Act" at the end of the first clause in paragraph (8) (7 U.S.C. 7a(8));

B. APPROVAL OF RULES OF SELF-REGULATORY ORGANIZATIONS

1. Contract Markets

Current Law

(Section 5a(12) of the Act requires each contract market to submit to the CFTC for its approval bylaws, rules, regulations and resolutions which relate to contract terms any conditions or to other trading requirements.

(Section 5a(12) further provides for CFTC approval of such provisions within 30 days of their receipt (and within 60 days for rules of major economic significance) unless the CFTC notifies the contract market of its inability to do so within that time.

(Requires publication in the Federal Register of rules determined by the CFTC to be of major economic significance.)

(Authorizes the CFTC to disapprove, after notice and opportunity for hearing, any contract market rule which the CFTC finds at any time to be in violation of the Act or regulations.

(Provides an exemption from the rule approval process for operational and administrative rules.

(Permits contract markets to adopt temporary emergency rules without prior CFTC approval and to set levels of margin.)

SEC. 5a. Each contract market shall—

(12) except as otherwise provided in this subsection, submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. At least thirty days before approving any such bylaws, rules, regulations, and resolutions of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such bylaws, rules, regulations, or resolutions are of economic significance shall be final and not subject to judicial review. The Commission shall approve, within thirty days of their receipt (or within sixty days of their receipt if the Commission determines them to be of major economic significance) unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations, and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this Act or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this Act or the regulations of the Commission. The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval.

Proposed Amendments

H.R. 5447

(Streamlines rule review process by limiting the rules which are required to be submitted for prior CFTC approval to those that (1) are "of major economic significance" or (2) relate to contract terms and conditions; requires submission of all other rule proposals but permits implementation of those proposals after 10 days' notice to CFTC unless CFTC determines that the rule merits review or the contract market itself requests review.

(Retains existing time periods for approval of rules which is required or requested under amendments made by H.R. 5447.

(Provides for publication in the *Federal Register* of a notice of economically significant rule proposals in lieu of the full text thereof.

(Continues CFTC's authority to review any rule (except margin levels) and to disapprove any rule at any time.

(Eliminates separate category of operational and administrative rules.

(Does not affect the contract markets' authority to take emergency action or to set levels of margin. (Sec. 13(c).))

SEC. 13. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended as follows:

(c) by amending subsection 5a(12) to read as follows:

"(12) except as otherwise provided in this subsection, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions (rules) made or issued by such contract market, or by the governing board thereof or any committee thereof, which are of major economic significance, or which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin) and shall not place such rules into effect if, within ten days of receipt by the Commission of such submission, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review for approval such rules. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register a notice of such rules. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve rules, within thirty days of their receipt if Commission approval is required or requested hereunder, within thirty days after the Commission determines to review for approval any other rules, or within sixty days of such determination if the Commission determines them to be of major economic significance, unless the Commission notifies the contract market of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the Commission, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of the Act or the regulations of the Commission. The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make effective a rule on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this subsection, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into effect immediately a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved.".

Industry/NFA Bill

(Limits the rule review requirement to rules of general applicability to market participants, thereby excluding actions which implement or interpret rules. (Sec. 5(2).)

(Provides that if CFTC has approved a proposed rule or instituted disapproval proceedings within 60 days after the filing of a proposed rule, or if disapproval proceedings have been instituted within 60 days but have not been completed within 180 days of institution, a contract market may put such rule into effect.

(Requires CFTC, in disapproving a rule, to specify the Section(s) of the Act that the rule would violate and to furnish the contract market with a hearing on the record. Continues CFTC's right to disapprove any rule (except margin levels) after implementation.

(Eliminates the category of rules of major economic significance and the publication requirement for such rules. (Sec. 5(3).)

(Retains exemption for operational and administrative rules. (Sec. 5(4).)

(Does not affect the contract markets' authority to take emergency action or to set levels of margin. (Sec. 5.))

SEC. 5. Section 5a of the Commodity Exchange Act is amended by—

(2) inserting "which embody policy of general applicability to market participants and" after "committee thereof" in the introductory clause in paragraph (12) (7 U.S.C. 7a(12));

(3) striking out, in their entirety, the first through fourth complete sentences in paragraph (12) (7 U.S.C. 7a(12)) and inserting in lieu thereof the following: "Within sixty days after the Commission receives any such bylaw, rule, regulation, or resolution, or within such longer period as the contract market may agree to, the Commission shall either approve such bylaw, rule, regulation, or resolution, or institute proceedings to determine whether it should be disapproved. The Commission shall approve such bylaw, rule, regulation, or resolution, unless it determines as hereinafter provided that such bylaw, rule, regulation, or resolution violates any provision of this Act or of the Commission's regulations, in which case the Commission shall disapprove such bylaw, rule, regulation, or resolution. If the Commission institutes proceedings to determine whether a bylaw, rule, regulation, or resolution should be disapproved pursuant to this subsection, it shall furnish the contract market with written notice of the proposed grounds for disapproval (including the specific section or sections of this Act or the

Commission's regulations which would be violated) and shall furnish the contract market an opportunity for a hearing on the record. At the conclusion of such proceedings, the Commission, by order, shall approve or disapprove such bylaw, rule, regulation, or resolution. Any order of disapproval shall contain findings to show that the rule is within the Commission's review authority under this subsection and that the rule is in violation of one or more specified sections of this Act or the Commission's regulations. If the Commission does not approve or institute disapproval proceedings with respect to any bylaw, rule, regulation, or resolution within sixty days after receipt or within the agreed period, or does not conclude the disapproval proceedings with respect to any bylaw, rule, regulation, or resolution within one hundred and eighty days after receipt, such bylaw, rule, regulation, or resolution may be implemented and enforced by the contract market until such time as the Commission disapproves such bylaw, rule, regulation, or resolution in accordance with this subsection.";

(4) striking out in the last sentence in paragraph (12) (7 U.S.C. 7a(12)) "operational and administrative" and inserting after "rules" and before "from" the following: "which are subject to the provisions of this

paragraph but which are of an operational and administrative nature".

2. Margins

Current Law

(Section 5a(12) of the Act exempts contract market rules that relate to the setting of margins from the requirement that contract market rules be submitted for Commission approval.

(Section 8a(7)(C) of the Act limits the CFTC's authority to alter or supplement contract market trading requirements to those not relating to the setting of levels of margin.)

SEC. 5a(12). See above.

SEC. 8a. The Commission is authorized—

(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as:

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements, exception the setting of levels of margin;

(D) safeguards with respect to the financial responsibility of members;

(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts;

Proposed Amendment

Kansas City Board of Trade

(Deletes the word "margin" in 5a(12) and 8a(7)(C) and replaces it with "customer deposit" to avoid confusion with margin as used in connection with securities transactions.)

3. Registered Futures Associations

Current Law

(Section 17(j) of the Act requires a registered futures association to submit proposed rules or rule amendments to the CFTC for review. CFTC must disapprove rule or rule amendment unless rule or amendment is consistent with the provisions of the Act.)

(j) Every registered futures association shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, copies of any changes in or additions to the rules of the association, and such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (a) of this section. Any change in or addition to the rules of a registered futures association shall be submitted to the Commission for approval and shall take effect upon the thirtieth day after such approval by the Commission, or upon such earlier date as the Commission may determine, unless the Commission shall enter an order disapproving such change or addition; and the Commission shall enter such an order unless such change or addition appears to the Commission to be consistent with the requirements of this section and the provisions of this Act.

Proposed Amendment

H.R. 5447

(Requires a registered futures association to submit proposed rules or amendments to CFTC for review. Rules may go into effect within 10 days of receipt unless CFTC requests to review or the association requests review. CFTC to approve rules within 30 days of receipt unless it notifies association. CFTC to approve rules if consistent with section 17 and not in violation of the Act, and disapprove rules, after opportunity for hearing, if rules inconsistent with section 17 or violate Act. (Sec. 23(c).) (Note: This conforms the provision to the amendments made to section 5a(12).))

SEC. 23. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended as follows:

(c) by striking out the last sentence in subsection (j) and by inserting in lieu thereof the following: "A registered futures association shall submit to the Commission any change in or addition to its rules and shall not place such rules into effect if, within ten days of receipt by the Commission of such submission, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review for approval such rules. The Commission shall approve such rules, within thirty days of their receipt if Commission approval is requested hereunder or within thirty days after the Commission determines to review for approval any other rules, unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after the appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of the provisions of the Act or the regulations of the Commission.";

C. CONTRACT MARKET DESIGNATIONS

Current Law

(Section 5(g) of the Act requires that in order to be designated as a contract market a board of trade must demonstrate that a proposed futures contract will not be contrary to the public interest.

(Section 6 of the Act provides that upon CFTC refusal to designate a board of trade as a contract market, such board of trade is entitled to an opportunity for a hearing on the record before the Commission.)

SEC. 5. The Commission is hereby authorized and directed to designate any board of trade as a "contract market" when, and only when, such board of trade complies with and carries out the following conditions and requirements:

(g) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest.

SEC. 6. Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements. In the event of a refusal to designate as a "contract market" any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing on the record before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in paragraph (a) of this section.

Industry/NFA Bill

(Eliminates "public interest" test for contract market designation; substitutes a requirement that the board of trade demonstrate that the proposed futures contract can be used to perform a hedging or risk-management function. (Sec. 4.)

(Specifies that CFTC has 6 months to approve new contract applications or to deny the application and specify grounds for denial of designation; provides affected exchange 90 days after denial to request a hearing on the record, which must commence within 30 days of such request. (Sec. 6.))

SEC. 4. Section 5(g) of the Commodity Exchange Act (7 U.S.C. 7(g)) is amended by striking out in the first sentence "will not be contrary to the public interest" and inserting in lieu thereof "can be used to perform a hedging or risk-management function by permitting the transfer of the risk of fluctuations in price from producers, owners, consumers, buyers or sellers or persons who are otherwise at risk by reason of such fluctuations in price to persons willing to assume the risk.".

SEC. 6. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by striking out that part of the second sentence from the beginning thereof up to and including "with" and inserting in lieu thereof the following: "The Commission shall approve or deny an application for designation as a contract market within six months of the filing of the application, and if it denies the application, it shall specify the grounds for the denial. Any board of trade whose application has been denied shall be afforded a hearing on the record before the Commission within thirty days after the filing of a request for a hearing so long as such request is filed within ninety days of the denial of the application. The board of trade shall have".

DISCLOSURE OF INFORMATION/CONFIDENTIALITY

A. INVESTIGATIVE INFORMATION

Current Law

(Section 8(a) of the Act authorizes the CFTC to publish the findings of its investigations, reports, opinions and orders except that it generally may not disclose business transactions or market positions of any person, trade secrets, or names of customers.)

SEC. 8. (a) For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this Act. The Commission may publish from time to time the results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this Act, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.

Proposed Amendments

H. R. 5447

(Extends prohibition on publication to information resulting from the CFTC's investigation of any person. (Sec. 16(a).))

Sec. 16. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended as follows—

(a) by adding the words "or data and information concerning or obtained in connection with any investigation of any person" at the end of subsection (a);

Industry/NFA Bill

(Exempts from disclosure all trade secrets, confidential or proprietary information, and any information the Commission has undertaken to keep confidential. (Sec. 7(1).))

Sec. 7. Section 8 of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by—

(1) inserting in the proviso in the second sentence in paragraph (a), after "not" and before "publish", the following: "disclose any records containing or based on (1) trade secrets, (2) confidential information, (3) proprietary information which would not customarily be disclosed to the public by the persons from whom it was obtained, or (4) information which the Commission in good faith has obligated itself not to disclose, or";

B. AUTHORIZED DISCLOSURE OF CERTAIN MARKET INFORMATION

Current Law

(Section 8(b) of the Act limits the disclosure of business transactions or market positions of any person, trade secrets, or names of customers to those made in connection with a Congressional proceeding or in an administrative or judicial proceeding brought under the Act.)

Sec. 8. (b) The Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act.

Proposed Amendments

H. R. 5447

(Extends authorized disclosure of confidential information to permit its use in connection with certain judicial receivership or bankruptcy proceedings. (Sec. 16(b)(3)).)

Sec. 16. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended as follows—

(b) by amending subsection (b) as follows—

(2) by striking out the word "or" before the words "in an administrative or judicial proceeding"; and

(3) by inserting the words ", in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under the Bankruptcy Code" at the end of that subsection.

Industry/NFA Bill

(Requires CFTC to follow specified procedures before furnishing information in response to a subpena or summons served on the CFTC. Provides to registrants, contract markets, registered futures associations and other persons notice and opportunity to challenge such a subpena. (The procedures specified are similar to those afforded by the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) when an agency seeks certain financial information pertaining to individuals and partnerships of five or fewer individuals who are customers of financial institutions. Also limits disclosure of protected information in administrative or judicial proceedings to those to which the CFTC is a party (Sec. 7(3) and 7(4).))

Sec. 7. Section 8 of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by—

(3) adding at the end of the proviso in the second sentence in paragraph (a) the following: "*Provided further*, That the Commission shall disclose information in

its possession pursuant to a subpena or summons authorized by law only if—

"(A) a copy of the subpena or summons has been served upon the submitter or mailed to his last known address on or before the date on which the subpena or summons was served on the Commission together with the following notice which shall state with reasonable specificity the nature of the underlying proceeding:

" 'Records or information held by the Commission are being sought by (person or government agency or official) for the following purpose: (   ). If you desire that such records or information not be made available, you must:

" '1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the submitter whose records are being requested pursuant to subpena and either giving the reasons you believe that the records are not relevant to the proceeding stated in this notice or any other legal basis for objecting to the release of the records.

" '2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States district courts: (   ).

" '3. Serve the person requesting the records by mailing or delivering a copy of your motion and statement to: (   ).

" '4. Be prepared to come to court and present your position in further detail.

" '5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights. If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available;' and

"(B) ten days have expired from the date of service of the notice or fourteen days have expired from the date of mailing the notice to the submitter and within such time period the submitter has not filed a sworn statement and motion to quash in an appropriate court.

"(C) For purposes of this act, 'submitter' means any person who submitted information which is the subject of the subpena or summons to the Commission, to a contract market designated pursuant to section 5 of this Act, to a registered futures association registered under section 17 of this Act, or to any other person registered under this Act. Where there is more than one submitter regarding a single subpena or summons, all such submitters must be served pursuant to the procedures set forth in (A) and (B) above.";

(4) adding "to which the Commission is a party" before the period at the end of paragraph (b).

C. SHARING INFORMATION WITH STATES AND FOREIGN GOVERNMENTS

Current Law

(Section 8(e) of the Act permits the CFTC to furnish information regarding traders and market positions to Congress or any Federal department or agency of the executive branch.

(Section 12(a) of the Act permits the CFTC to cooperate with any department or agency of the Government, any State, territory, district or possession or subdivision thereof. or any person.)

SEC. 8 (e) The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information , and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Executive Branch of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party.

* * * * *

SEC. 12. (a) The Commission may cooperate with any department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

Proposed Amendments

H. R. 5447

(Clarifies that information may be disclosed to any appropriate Federal department or agency, including independent agencies.

(Extends current authority under section 8(e) of the Act to permit the CFTC to provide State and foreign officials with information is used solely for bona fide law enforcement purposes. (Sec. 16(c)(2).))

SEC. 16. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended as follows—

(c) by amending subsection (e) as follows—

(1) by striking out the words "of the Executive Branch"; and

(2) by adding the following words at the end of that subsection: "Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with any action or proceeding brought under this Act or the laws of such State or political subdivision to which such State or political

subdivision, or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with any action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.".

North American Securities Administrators Association

(Authorizes the CFTC to share investigative information with the States.

(Amends section 12(a) by requiring the CFTC to furnish enforcement information to the department or agencies of the Government and of any State, territory, possession, or political subdivision thereof.)

Section 8(e) of the Act is amended by—

(a) inserting in the third sentence "or of any department or agency of any State" after "of the Government of the United States";

(b) inserting in the fourth sentence "or State" after "to any Federal";

(c) inserting in the fourth sentence "or the laws of any State" after "of the United States"; and

(d) inserting in the fourth sentence "or the State" after "or the United States".

Section 12 of the CEA is amended by adding in subsection (a) after "person" the words "and shall specifically cooperate with such department or agency by furnishing information necessary for enforcement purposes."

D. Sharing Information With Contract Markets and Other Self-Regulatory Organizations

Current Law

(Section 8a(6) of the Act authorizes the CFTC to share with contract markets any information in its possession about any transaction or market operation that, in its judgment, disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers.)

SEC. 8. (a)(6) to communicate to the proper committee or officer of any contract market, notwithstanding the provisions of section 8 of this Act, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interest of producers and consumers;

Proposed Amendments

H.R. 5447

(Broadens section 8a(6) of the Act to authorize disclosure to a registered futures association or to a regulatory organization recognized under the Federal securities laws as well as to contract markets, and to authorize disclosure of any information "necessary or appropriate to effectuate the purposes" of the Act; permits such information in turn to be disclosed only in a self-regulatory action or proceeding. (Sec. 17(f).))

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended as follows:

(f) by amending subsection 8a(6)—

(1) by inserting the words "registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934," before the word "notwithstanding";

(2) by striking out the word "and" before the word "consumers"; and

(3) by inserting the following before the semicolon: "or investors or which is necessary or appropriate to effectuate the purposes of this Act:

Provided, however, That any information furnished by the Commission under this subsection shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding";

GAO

(Authorizes CFTC to disclose certain information to contract markets for market surveillance purposes and requires that any information so furnished shall not be disclosed by such contrat market except in a self-regulatory action or proceeding. (Sec. 107 of GAO.))

Sec. 107. To authorize the Commission to disclose certain information to contract markets for market surveillance purposes, section 8a(6) of the Commodity Exchange Act, as amended, is further amended to read as follows:

"(6) to communicate or routinely supply to the proper committee or officer of any contract market, norwithstanding the provisions of section 8 of this Act, the full facts concerning any transaction, market positions, or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers or which in the judgment of the Commission would facilitate surveillance of market activities by any contract market: *Provided, however,* any information furnished by the Commission under this subsection, either on an occasional or routine basis, shall not be disclosed by such contract market except in a self-regulatory action or proceeding.".

E. Technical Change

Current Law

(Section 16(d) of the Act prohibits the CFTC from disclosing in its market reports the business transactions of any person and trade secrets or names of customers except as provided in section 8 of the Act.)

SEC. 16(d). The Commission shall not disclose in such reports data and information which would separately disclose the business transactions of any person and trade secrets or names of customers except as provided in section 8 of this Act.

Proposed Amendment

H.R. 5447

(Insert the words "or market positions" to conform section 16(d) of the Act to section 8 of the Act. (Sec. 22.))

SEC. 22. Section 16 of the Commodity Exchange Act (7 U.S.C. 20) is amended by inserting the words "or market positions" after the word "transactions" in subsection (d).

ENFORCEMENT

A. Restraining Orders

Current Law

(Section 6c of the Act authorizes CFTC to seek restraining orders for violations of the Act or any rule, regulation, or order thereunder.

(Provides that the courts may not issue an *ex parte* restraining order or injunction for any such violation.)

SEC. 6c. Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this act or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this Act, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: *Provided*, That no restraining order or injunction for violation of the provisions of this Act shall be issued ex parte by said Court.

Proposed Amendment

H.R. 5447

(Permits the CFTC to obtain ex parte orders from courts of competent jurisdiction for the limited purposes of preventing the destruction of evidence or the dissipation of assets or obtaining access to books and records. (Sec. 15.))

SEC. 15. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by adding after the words "restraining order" in the first proviso, the following words:

"(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission from inspecting when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property)".

Association of the Bar of the city of New York

(Amends section 6c to limit issuance of restraining orders to knowing and willful violations.)

SEC. . Section 6c of the Commodity Exchange Act (7 U.S.C. 13a–1) is amended by inserting "willful and knowing" after "constituting a" and before "violation" in the first sentence thereof.

B. EMBEZZLEMENT

Current Law

(Section 9(a) of the Act provides that it is a felony for any futures commission merchant, or any employee or agent thereof, to embezzle or steal customer assets.)

SEC. 9. (a) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any futures commission merchant, or any employee or agent thereof, to embezzle, steal, purloin or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such commission merchant to margin, guarantee, or secure the trades or contracts of any customers of such commission merchant or accruing to such customer as the result of such trades or contracts. The word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. Not withstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution.

Proposed Amendment

H.R. 5447

(Expands current section 9(a) of the Act to make it a felony for any person registered or required to be registered under the Act, or any employee or agent thereof, to embezzle or steal customer assets. (Sec. 18(a).))

SEC. 18. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended as follows:

(a) by amending subsection (a)—

(1) by striking out the words "futures commission merchant" and inserting in lieu thereof "person registered or required to be registered under this Act";

(2) by striking out the words "commission merchant" and inserting in lieu thereof "person or any employee or agent thereof";

(3) by striking out the words "of such futures commission merchant"; and

(4) by inserting the words "or which otherwise was received from any customer, client or pool participant in connection with the business of such person" after the word "contracts" the second time it appears;

C. SECONDARY RESPONSIBILITY; CONTROLLING PERSON

Current Law

(Section 13(a) of the Act provides that any person who willfully aids or abets another in any violation of the Act shall be liable as a principal for such violation in administrative proceedings brought under the Act.)

SEC. 13. (a) Any person who commits, or who willfully aids, abets, counsels, commands, induces, or procures the commission of, a violation of any of the provisions of this Act, or any of the rules, regulations or orders issued pursuant to this Act, or who acts in combination or concert with any other person in any such violation, or who willfully causes an act to be done or omitted which if directly performed or omitted by him or another would be a violation of the provisions of this Act or any of such rules, regulations, or orders may be held responsible in administrative proceedings under this Act for such violation as a principal.

Proposed Amendment

H.R. 5447

(Deletes reference to administrative proceedings so that aiders and abettors may be held liable in administrative or judicial proceedings brought pursuant to the Act. (Sec. 20(a).)

(Adds new section 13(b) providing that a person who directly or indirectly controls another person (or entity) which violates the Act is liable as a principal unless he did not know or, in the exercise of reasonable care, have reason to know of the violation. (Sec. 20(c).))

SEC. 20. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended as follows:

(a) by striking out the words "in administrative proceedings under this Act" in subsection 13(a);

(b) by redesignating existing subsection (b) as subsection (c); and

(c) by adding a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person who violates any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held responsible for such violation as a principal, unless the controlling person did not know or, in the exercise of reasonable care, did not have reason to know, of the facts constituting the violation.".

D. TECHNICAL AMENDMENTS

1. Misrepresentation

Current Law

(Section 4h(2) of the Act provides that it is unlawful for any person to misrepresent its status as a member of a contract market or as a futures commission merchant or representative or agent thereof.

(Section 4*o* of the Act provides that it is unlawful for any commodity trading advisory or commodity pool operator to engage in fraudulent activities or to misrepresent the effect of its registration.)

SEC. 4h. It shall be unlawful for any person—

(2) falsely to represent such person to be a member of a contract market, or the representative or agent of such member, or to be a futures commission merchant registered under this Act, or the agent of such registered futures commission merchant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through any member of, any contract market.

SEC. 4o. (1) It shall be unlawful for any commodity trading advisor or commodity pool operator by use of the mails or any means or instrumentality or interstate commerce, directly or indirectly—

(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

(2) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this Act to represent or imply in any manner whatsoever that he has been spon-

sored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof: *Provided*, That this section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor or commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.

Proposed Amendments

H.R. 5447

(Extends the prohibition against misrepresentation of sttus to apply to any registrant under the Act, including the representative or agent of any registrant. (Sec. 6.)

(Extends the antifraud provisions of section 4o to apply to the associated persons of commodity trading advisors and of commodity pool operators. (Sec. 11.))

SEC. 6. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended—

(a) by striking out everything following the word "person" and including "(2)";

(b) by striking out the words "futures commission merchant registered" and by inserting in lieu thereof the word "registrant";

(c) by striking out the words "such registered futures commission merchant" and inserting in lieu thereof the words "any registrant"; and

(d) by adding the words "representative or" before the word "agent" the second time it appears in existing subparagraph (2).

SEC. 11. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended—

(a) by striking out the word "or" and inserting in lieu thereof the words ", associated person of a commodity trading advisor," after the words "commodity trading advisor" each place such words occur; and

(b) by inserting the words "or associated person of a commodity pool operator," after the words "commodity pool operator" each place such words occur.

Association of the Bar of the City of New York

(Limits the behavior proscribed by section 4o to willful and knowing conduct.)

Sec. . Section 4o(1) of the Commodity Exchange At (7 U.S.C. 60(1)) is amended by—

(1) inserting in subparagraph (A) thereof "willfully and knowingly" before the phrase "to employ any device, scheme, or artifice to defraud", and

(2) by inserting in subparagraph (B) thereof "willfully and knowingly" before "to engage in any transaction".

2. Appellate Venue

Current Law

(Section 6(b) of the Act provides that a petitioner may obtain appellate review of a CFTC order by filing a petition in the United States court of appeals of the circuit in which the petitioner is doing business.)

Sec. 6. (b) * * * After the issuance of the order by the Commission, as aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States court of appeals of the circuit in which the petitioner is doing business a written petition, within fifteen days after the notice of such order is given to the offending person, praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and thereupon the Commission shall file in the court the record theretofore made, as provided in section 2112 of Title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Commission, and the findings of the Commission, as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.

Proposed Amendment

H.R. 5447

(Clarifies law governing appellate venue for review of CFTC orders by providing that in the case of an order denying registration, the petitioner may obtain review in the circuit in which the petitioner's principal place of business listed on its application for registration is located. (Sec. 14.))

Sec. 14. Section 6b of the Commodity Exchange Act (7 U.S.C. 9) is amended by inserting after the word "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

E. ADMINISTRATIVE ENFORCEMENT/DOUBLE JEOPARDY

Current Law

(Section 6(b) of the Act empowers the CFTC to institute administrative enforcement action against any person for adjudicated violations of the Act to impose various sanctions such as denial of trading privileges and assessment of civil penalties of up to $100,000 per violation.)

(Section 6(c) of the Act empowers the CFTC to issue cease and desist orders to stop market manipulation. Failure to comply with such order is a misdemeanor offense subject to a fine of up to $100,000 and imprisonment of up to 1 year.)

SEC. 6. (b) If the Commission has reason to believe that any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or has willfully made any false or misleading statement of a material fact in any registration application or any report filed with the Commission under this Act, or willfully omitted to state in any such application or report any material fact which is required to be stated therein, or otherwise is violating or has violated any of the provisions of this Act or of the rules, regulations, or orders of the Commission thereunder, it may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made prohibiting him from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to such person, until further notice of the Commission, and to show cause why the registration of such person, if registered as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder, should not be suspended or revoked. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the Commission or before an Administrative Law Judge designated by the Commission, which Administrative Law Judge shall cause all evidence to be reduced to writing and forthwith transmit the same to the Commission. For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found. Upon evidence received, the Commission may prohibit such person from trading on or subject to the rules of any contract market and require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in the order, and, if such person is registered as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder, may suspend, for a period not to exceed six months, or revoke, the registration of such person, and may assess such person a civil penalty of not more than $100,000 for each such violation. Notice of such order shall be sent forthwith by registered mail or by certified mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the Commission, as aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States court of appeals of the circuit in which the petitioner is doing business a written petition, within fifteen days after the notice of such order is given to the offending person, praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and thereupon the Commission shall file in the court the record theretofore made, as provided in section 2112 of Title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Commission, and the findings of the Commission, as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.

(c) If any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or otherwise is violating or has violated any of the provisions of this Act or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in paragraph (b) of this section, make and enter an order directing that such person shall cease and desist therefrom, and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of misdemeanor and, upon conviction thereof, shall be fined not more than $100,000, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within paragraph (a) or (b) of section 9 of this Act, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said paragraph 9(a) or 9(b): *Provided*, That any such cease and desist order against any respondent in any case of manipulation of, or attempt to manipulate, the price of any commodity shall be issued only in conjunction with an order issued against such respondent under section 6(b) of this Act. Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense. [As amended by Act of October 23, 1974 (Commodity Futures Trading Commission Act of 1974) effective April 21, 1975, Secs. 103, 212(c), 88 Stat. 1404.]

Industry/NFA Bill

(Limits CFTC section 6(b) proceedings against any person for conduct in violation of the Act or regulations if that person has previously been disciplined for such violation by a contract market or registered futures association to cases in which the CFTC finds that the discipline already imposed was inadequate. (Sec. 17.))

SEC. 17. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by adding before the period at the end of the first sentence the following: ", except that the Commission shall not proceed against a person who has been disciplined by a contract market or a registered futures assocation for the conduct that is the subject of the complaint unless the Commission first finds that the discipline imposed was inadequate in light of the magnitude of the alleged offense".

Association of the Bar of the City of New York

(Amends section 6(b) and 6(c) such that only knowing violations may be the basis for administrative action.)

SEC. . Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

(1) inserting "knowingly" before "violating" and before "violated" in the first sentence thereof; and

(2) by inserting "of any such act or omission" after "upon evidence received", in the ninth sentence thereof.

Sec. . Section 6(c) of the Commodity Exchange Act (7 U.S.C. 13b) is amended by inserting "knowingly" before "violating" and before "violated" in the first sentence thereof.

REMEDIES

A. Arbitration

Current Law

(Sections 5a(11) and 17(b)(10) of the Act respectively require contract markets and registered futures associations to provide arbitration procedures for claims of customers (other than futures commissioned merchants or floor brokers) procedures for customers' claims against members if these claims are not in excess of $15,000; and permit no compulsory payment except as agreed between the parties.)

Sec. 5a. Each contract market shall—

(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this subsection shall not include a futures commission merchant or a floor broker;

Sec. 17.

(b) An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

(10) the rules of the association provide for a fair and equitable procedure through arbitration or otherwise for the settlement of a customer's claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term 'customer' as used in this subsection shall not include a futures commission merchant or a floor broker.

Proposed Amendment

H.R. 5447

(Eliminates the current $15,000 ceiling on claims for which arbitration must be provided; retains existing right of customer to elect arbitration; eliminates the "no compulsory payment" provision; and broadens the term "customer" to include futures commission merchants who are not members of the contract market. (Sec. 13(b) and 23(a).))

Sec. 13. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended as follows:

(b) by amending subsection 5a(11)—

(1) by striking out the comma before subparagraph (ii) and by striking out subparagraphs (ii) and (iii) in their entirety;

(2) by redesignating subparagraph (iv) as subparagraph (ii); and

(3) by striking out the words "a futures commission merchant or a floor broker" and inserting in lieu thereof the words "another member of the contract market" in subparagraph (ii) as so redesignated;

SEC. 23. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended as follows:

(a) by amending paragraph (10) of subsection (b)—

(1) by striking out the words "a customer's" and inserting in lieu thereof "customers'";

(2) by striking out the comma before subparagraph (ii) and by striking out subparagraphs (ii) and (iii) in their entirety;

(3) by redesignating subparagraph (iv) as subparagraph (ii); and

(4) by striking out the words "a futures commission merchant or floor broker" and inserting in lieu thereof the words "another member of the association";

GAO

(Raises the current $15,000 dollar limitation to $25,000 and authorizes the CFTC to increase the limit to $50,000 in both sections 5a(11) and 17(b)(10) to reflect changes in the Consumer Price Index. (Sec. 106.))

SEC. 106. To increase the dollar limitation on claims for which customers can arbitrate, sections 5a(11)(ii) and 17(b)(10)(ii) of the Commodity Exchange Act, as amended, are amended by deleting "$15,000" therefrom and inserting "$25,000" therefor. Sections 5a(11)(ii) and 17(b)(10)(ii) of the Commodity Exchange Act, as amended, are further amended by adding to the end thereof the following: ": *Provided, however,* That the Commission may periodically adjust the limitation in subparagraph (ii) above to not exceed $50,000 to reflect changes in the Consumer Price Index, in the average amount of claims submitted to the Commission pursuant to section 14 of this act, and other pertinent factors.".

Industry/NFA Bill

(Eliminates current $15,000 ceiling and other specific requirements in section 17(b)(10) and requires a national arbitration system by a registered futures association; eliminates any provision for contract market arbitration in section 5a(11) if a registered futures association provides for arbitration of disputes between customers and members of the association who do business directly with the public. (Secs. 21 and 22.))

SEC. 21. Paragraph (10) of subsection (b) of section 17 of the Commodity Exchange Act (7 U.S.C. 21(b)(10)) is amended by striking the paragraph in its entirety and inserting in lieu thereof the following:

"(10) the rules of the association provide for a fair, equitable, inexpensive, and expeditious procedure through a uniform, national arbitration system for the settlement of disputes between members of the association directly doing business with the public and their customers regarding transactions regulated under this Act.".

SEC. 22. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by- -

(1) inserting before "provide" the following: "unless available under the rules of a futures association registered under section 17 of this Act,";

(2) striking out "(such as by delegation to a registered futures association having rules providing for such procedures)".

B. REPARATIONS

Current Law

(Section 14 of the Act provides that any person complaining of a violation of the Act or any rule, regulation, or order thereunder by any person who is registered, or required to be registered, or required to be registered, with the CFTC may petition the CFTC for a reparation award. A hearing before an Administrative Law Judge must be held in cases where the amount of damages claimed exceeds $5,000; in all other cases, the matter may be decided on the papers submitted by the parties. Sets forth mandatory procedures for processing reparations claims.)

SEC. 14. (a) Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person who is registered or required to be registered under section 4d, 4e, 4k, or 4m of this Act may, at any time within two years after the cause of action accrues, apply to the Commission by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Commission, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Commission to the respondent, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Commission.

(b) If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the respondent and afford such person an opportunity for a hearing thereon before an Administrative Law Judge designated by the Commission in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing need not be held and proof in support of the complaint and in support of the respondent's answers may be supplied in the form of dispositions or verified statements of fact.

(c) After opportunity for hearing on complaints where the damages claimed exceed the sum of $5,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of $5,000 not requiring hearing as provided herein, the Commission shall determine whether or not the respondent has violated any provision of this Act or any rule, regulation, or order thereunder.

(d) In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent:

Provided, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(e) If after a hearing on a complaint made by any person under subsection (a) of this section, or without hearing as provided in subsections (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determines that the respondent has violated any provision of this Act, or any rule, regulation, or order thereunder, the Commission shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum.

(f) If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, within three years of the date of the order, may file a certified copy of the order of the Commission, in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, for enforcement of such reparation award by appropriate orders. The orders, writs, and processes of such district court may in such case run, be served, and be returnable anywhere in the United States. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit. Subject to the right of appeal under subsection (g) of this section, an order of the Commission awarding reparations shall be final and conclusive.

(g) Any order of the Commission entered hereunder shall be reviewable on petition of any party aggrieved thereby, by the United States Court of Appeals for any circuit in which a hearing was held, or if no hearing was held, any circuit in which the appellee is located under the procedure provided in paragraph (b) of section 6 of this Act. Such appeal shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the peyment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undetaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonble attorney's fee to be taxed and collected as a part of his costs.

(h) Unless the registrant against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order, he shall be prohibited from trading on all contract markets and his registration shall be suspended automatically at the expiration of such fifteen-day period until he shows to the satisfaction of the Commission that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgement on the appeal, but if the judgment is stayed by a court of competent juriadiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(i) The provisions of this section shall not become effective until fifteen months after the date of its enactment: *Provided*, That claims which arise within one year immediately prior to the effective date of this section may be heard by the Commission after such fifteen months period.

Proposed Amendments

H.R. 5447

(Limits reparations claims to cases where respondent is registered with the Commission; eliminates statutorily required procedures, including requirement that claims over $5,000 must be heard by an Administrative Law Judge; authorizes the CFTC to issue rules for the administration of the reparations programs; and extends automatic prohibition on trading upon failure to pay a final reparations award to any party not just a registrant. (Sec. 21.))

SEC. 21. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended as follows:

(a) by striking out existing subsections (b), (c) and (e);

(b) by redesignating subsections (d) as (c); (f) as (d); (g) as (e); (h) as (f); and (i) as (g);

(c) by amending subsection (a)—

(1) by striking out the words "or required to be registered under section 4d, 4e, 4k or 4m of" and inserting in lieu thereof the word "under" and by striking out everything after the words "to the Commission" before the period;

(2) by inserting at the end thereof the words "for an order awarding actual damages proximately caused by such violation";

(3) by adding a new subsection 14(b) to read as follows:

"(b) The Commission may promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe without limitation, the form, filing and service of pleadings or orders; the nature and scope of discovery; counterclaims; motion practice (including the grounds for dismissal of any claim or counterclaim); hearings (including the waiver thereof, which may relate to the amount in controversy); rights of appeal, if any; and all other matters governing proceedings before the Commission under this section.";

(4) by changing the reference in subsection (d), as so redesignated, from "(g)" to "(e)"; and

(5) by amending subsection (f), as so redesignated, to read as follows:

"(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: *Provided,* That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.".

Industry/NFA Bill

(Bars the filing of most reparations claims following the establishment of a uniform national arbitration system by a registered futures association and the declaration by the CFTC of the effectiveness of the arbitration procedures; reparations claims against floor brokers would still be heard by the CFTC. (Secs. 20 and 21.))

SEC. 20. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by adding a new subsection (j) to read as follows:

"(j) Notwithstanding any other provision of this section, no petition shall be cognizable under this section if there are in force rules of a futures association registered under section 17 of this Act which rules (1) comply with subsection (b)(10) of section 17; (2) permit a person complaining of any violation of this Act or any rule or order of the Commission by a futures commission merchant, introducing broker, associated person, commodity pool operator or commodity trading advisor, to obtain an adjudication of such complaint; and (3) have been declared effective for purposes of this subsection (j) by the Commission following notice and opportunity for hearing: *Provided, however,* That this subsection shall not apply to any petition filed with the Commission under subsection (a) of this section prior to the effective date of any Commission declaration under this subsection (j), or to any petition which complains of a violation by a floor broker."

See above for text of section 21.

Association of the Bar of the City of New York

(Amends section 14 to—

(Change the beginning of the limitation period for filing a complaint from "the date the cause of action accrues" to "the date of loss";

(Limit damages recoverable to actual damages;

(Allow the CFTC to dismiss a complaint against a registrant in bankruptcy or receivership.

(Require the CFTC to notify respondent of any complaint made against the respondent; Require that the CFTC forward the complaint to an Administrative Law Judge within 90 days after answer if it appears that the matter should be forwarded.

(Designate as summary proceedings complaints where the amount in controversy does not exceed $10,000, or such greater amount as determined by the CFTC. If a complaint is designated as a summary proceeding, no discovery, no findings of fact, no written opinion or conclusions of law, and no review or appeal will be allowed.

(Provide that the Administrative Procedure Act, does not apply where damages claimed do not exceed $10,000; and make the determination of the Administrative Law Judge a CFTC determination in such cases.)

SEC. . Section 14(a) of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out the words "cause of action accrues," and inserting in lieu thereof the words "loss caused by the violation complained of,";

(2) inserting the words "for an order awarding actual damages proximately caused by such violation," after the words "which shall briefly state the facts,"; and

(3) inserting at the end thereof the following sentence: "Upon good showing the Commission may dismiss any complaint brought against a registrant which is in receivership or bankruptcy and for which a receiver or trustee has been appointed.".

SEC. . Section 14(b) of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out the words "If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action" and inserting in lieu thereof the words "The Commission shall";

(2) inserting the words "shall, if it appears from the complaint and response thereto that the matter should be forwarded, refer such matter within ninety days of receiving the response to" after the words "or otherwise on the respondent and";

(3) striking out the words "afford such person an opportunity for a hearing thereon before" before the words "the Office of Hearings and Appeals";

(4) striking out the words "sum of $5,000" and inserting in lieu thereof "amount set forth in 28 U.S.C. 1332, or such greater amount as the Commission may specify,";

(5) inserting before the words "a hearing need not be held" the words "such complaints shall be designated as summary proceedings and no discovery shall be had, and"; and

(6) inserting at the end thereof the following sentences: "There shall be no findings of fact, written

opinion or conclusions of law, no reviews or appeals of any kind from such summary proceedings. The administrative law judge shall enter an order awarding actual damages, if any, proximatley caused by any violation of any provisions of this Act or any rule, regulation, or order thereunder. The Commission shall rule upon any request for the Commission to review such orders other than Summary Proceedings within 90 days after receiving all papers from the parties concerning the request.".

SEC. . Section 14(c) of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) amending section 14(c) to read as follows:

"(c) The Administrative Procedure Act (5 U.S.C. 554) shall not apply to complaints where the damages claimed do not exceed the amount set forth in section 1332 of title 28, United States Code, and the order and determination of the Administrative Law Judge in such cases shall be deemed the order and determination of the Commission.".

SEC. . Section 14(g) of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) inserting the word "appealable" after "Any" and before "order".

SEC. . Section 14(h) of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out the words "the registrant" and inserting in lieu thereof the words "a party"; and

(2) inserting the words, "if registered," after the words "contract markets and".

C. Private Rights of Action

Current Law

(The Act does not provide an explicit private right of action in Federal courts for violation of the Act. This is implied under CFTC view of existing law. Two cases are presently pending before Supreme Court in which the issue is presented.)

Proposed Amendment

GAO

(Recommends that Congress clarifies its intent on private rights of action. If it is intended to provide such a right to supplement reparations provisions, it recommends expressly authorizing the filing of claims for damages in United States district courts, with review in the United States courts of appeals; and that cases may be brought against any person registered or required to be registered with the CFTC for violation of the Act or any rule, regulation, or order thereunder. (Sec. 105 of GAO.))

Sec. 105. (Should the Congress decide to provide aggrieved commodity purchasers an explicit cause of action against commodity professionals who violate provisions of the act,) section 14 of the act, as amended, is further amended by adding a new subsection (j) to read as follows:

"(j)(1) As an alternative to the procedure otherwise provided by this section or any other provision of this Act, any person who is injured by a violation of any provision of this Act or any rule, regulation, or order issued thereunder by the Commission by any person who is registered or required to be registered under sections 4d, 4e, 4k, or 4m of this Act or regulations promulgated by the Commission under this Act, may elect, at any time within two years after the injury complained of occurs, to bring a civil action for damages in any district court of the United States. Any action under this subsection may be brought in the district in which the defendant resides or is an inhabitant or transacts business or wherein the act or omission complained of occurred.

"(2) Any order of a district court awarding damages under paragraph 1 hereof shall be reviewable by the United States court of appeals for any circuit in which such action was brought in accordance with the provisions of subsection (g) of this section. Upon the failure of any person to satisfy any judgment of a district court awarding damages under paragraph 1 hereof within the period allowed for compliance or to take an appeal as herein authorized, he shall be subject to the penalty provided in subsection (h) of this section.".

EMERGENCY POWERS

Current Law

(Section 8a(9) of the Act authorizes the CFTC, in the event it has reason to believe an emergency exists, to direct a contract market to take such action as, in the CFTC's judgment, is necessary to maintain or restore orderly trading in, or liquidation of, any futures contract. "Emergency" means threatened or actual market manipulations or corners or other major market disturbances which prevent the market from reflecting supply and demand.

(Note: Courts have held the merits of CFTC emergency determinations are not subject to judicial review.)

Sec. 8a. The Commission is authorized—

(9) to direct the contract market whenever it has reason to believe that an emergency exists, to take such action as, in the Commission's judgment, is necessary to maintain or restore orderly trading in, or liquidation of, any futures contract. The term "emergency" as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity: *Provided*, That nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms "market emergency", or equivalent language in its own bylaws, rules, regulations, or resolutions.

Proposed Amendment

Industry/NFA Bill

(Expressly provides for judicial review of CFTC determination that an emergency exists, and of the action ordered by the CFTC to remedy the situation. (Sec. 8.))

SEC. 8. Section 8a of the Commodity Exchange Act is amended by—

(1) striking out ", in the Commission's judgment," in paragraph (9) (7 U.S.C. 12a(9));

(2) inserting after "*Provided,*" in paragraph (9) (7 U.S.C. 12a(9)) the following: "That any action taken by the Commission pursuant to this subsection, including its determination that it has reason to believe that an emergency exists, shall be subject to judicial review in the United States District Court for the District of Columbia or in the district court in the district in which the party seeking review reside: *And provided further,*".

LEVERAGE TRANSACTIONS

Current Law

(Section 19 of the Act prohibits leverage transactions in any commodity specifically enumerated in section 2(a)(1) of the Act; provides that leverage transactions in gold and silver bullion or bulk coins may not be offered contrary to CFTC regulations designed to ensure financial solvency or to prevent manipulation or fraud; authorizes the CFTC to prohibit or regulate leverage transactions in other commodities; and, in subsection 19(d), if the CFTC determines that any leverage transaction is a contract for future delivery, authorizes CFTC to regulate the transaction as a futures contract in accordance with applicable provisions of the Act.)

SEC. 19. (a) No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(b) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided,* That such rule, regulation, or order may be made only after notice and opportunity for hearing

(c) The Commission may prohibit or regulate any transactions, under a standardized contract described in subsection (a) of this section, involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided,* That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further,* That the Commission may set different terms and conditions for such transactions involving different commodities.

(d) If the Commission determines that any transaction under subsections (b) and (c) of this section is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

Proposed Amendment

H.R. 5447

(Ratifies and extends until September 30, 1984, existing moratoria established by CFTC rules on the entry of new firms into the leverage business and on the introduction of new leverage contracts; directs the CFTC to study the issue of leverage transactions and to submit the results of that study to Congress in two years together with recommendations on the manner in which such transactions should be regulated, if at all. (Sec. 24.))

SEC. 24. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by adding a new subsection (e) to read as follows:

"(e) Notwithstanding the provisions of subsections (b), (c), or (d) of this section, no person shall offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section, who was not engaged in that business on June 1, 1978, and no person shall offer to enter into, enter into, or conform the execution of, any transaction subject to the provisions of subsection (c) of this section, who was not engaged in that business on February 2, 1979: *Provided,* That such prohibitions shall terminate on September 30, 1984: *Provided further,* That within two years following the effective date of this subsection (e), the Commission shall conduct a study of such transactions and shall submit a report of the results of such study to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Such report shall include the Commission's recommendations concerning whether the national public interest, if any, to be served by such transactions requires that they be federally regulated, whether the national public interest, if any, to be served by such transactions overrides any State interest in their regulation, whether such transactions should be prohibited, whether any such transaction is a contract for future delivery within the meaning of this Act, the appropriate regulatory scheme to govern any such transaction that the Commission determines is not a contract for future delivery within the meaning of this Act, and any proposals for additional legislation that the Commission believes should be enacted with respect to such transactions.".

First National

(Repeals section 19(d) of the Act and opposes proposed section 19(e) contained in H.R. 5447.)

North American Securities Administrators Association

(Authorizes the States to require the registration of persons soliciting or accepting orders for the purchase or sale of leverage contracts and issue rules with respect thereto so long as the State jurisdiction does not conflict with the Act or any regulation or order thereunder.)

Section 19 of the Act is amended by adding the following new subsection:

"(e) Nothing contained in this Act shall prohibit a State from requiring the registration of persons soliciting or accepting orders for the purchase or sale of the standardized contracts described in subsection (a) of this section and from promulgating rules and regulations with respect thereto insofar as the exercise of such jurisdiction does not conflict with any provision of the Act or rule, regulation, or order thereunder.

USER FEES

Current Law

(Section 26 of the Futures Trading Act of 1978 authorizes the CFTC to develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the CFTC if, having first reported its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry, the CFTC has obtained the approval of those committees. (Other sections of the Act permit the collection of a fee for specific services such as fitness examinations and registrations and renewals (sections 4p and 8a(4)) and of reasonble fees and charges to defray the costs of additional regulatory duties the CFTC is required to perform with respect to persons who are registered under the Act but who are not members of a registered futures association.) (Section 17(d).))

SEC. 26. Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

Proposed Amendment

H.R. 5447

(Repeals section 26 of the 1978 legislation.)

(Assesses each exchange a transaction fee of 6 cents per side (long or short) for each futures or option contract made on the exchange for the account of a member of either the exchange or a registered futures association (such as the National Futures Association); assesses a 12-cent fee for each futures or option contract which is not for the account of an exchange member or a member of a registered futures association; and assesses each leverage transaction merchant and dealer option grantor $3 for each leverage contract or dealer option. All fees would be remitted annually to the United States Treasury.

(Authorizes the CFTC to suspend the assessment of fees if amounts collected exceed its current budget and to reduce, suspend, or waive the fee to prevent or correct a significant adverse effect upon any market or person.

(Requires CFTC to establish an Advisory Committee of affected market users which would report to the Congress on the user fee program by June 30, 1985. (Sec. 25.))

SEC. 25. Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) is amended by striking out the existing language. In lieu thereof a new section 22 is added to read as follows:

"TRANSACTION FEES

"SEC. 22. (a) Each contract market, or other board of trade licensed by the Commission shall remit to the Treasury of the United States, with written verification thereof to the Commission, by March 15 of each year, a fee in the following amounts for each contract for the purchase or sale of a commodity for future delivery and for each commodity option subject to the provisions of section 4c of this Act entered on or subject to the rules of such contract market or board of trade during the preceding calendar year or portion thereof following the effective date of this section:

"(1) 12 cents for each such contract or option which is made or executed for the account or benefit of a person who is not a member of such contract market or board of trade or of a registered futures association; and

"(2) 6 cents for each such contract or option which is made or executed for the proprietary account (as defined by the Commission) of a person who is a member of such contract market, board of trade or of a registered futures association.

"(b) Each person who grants a commodity option pursuant to section 4c(d) of this Act, or who is engaged in the business of offering any leverage transaction pursuant to section 19 of this Act, shall remit to the Treasury of the United

States, with written verification thereof to the Commission, by March 15 of each year, a fee of $3 for each such option granted or leverage contract entered during the preceding calendar year or portion thereof following the effective date of this section.

"(c) The fees assessed hereunder for any calendar year are intended not to exceed the funds appropriated by the Congress for the Commission's activities for the fiscal year in which remittance of the fees is due. In the event that the total fees remitted to the Treasury of the United States pursuant to this section for any calendar year or portion thereof exceed the funds appropriated for the Commission for the fiscal year in which remittance of the fees is due, the Commission shall, by rule, regulation, or order, suspend the assessment of fees in the current calendar year for such period as the Commission determines, to the extent practicable and based on current market volume, would otherwise generate an amount equal to excess fees remitted in the preceding calendar year. No fees shall be required to be remitted for transactions effected during such period of suspension determined by the Commission; provided that at the conclusion of such period, the obligation to assess fees to be remitted under this section shall resume.

"(d) Notwithstanding any other provision of this section, the Commission, after notice and opportunity for hearing, may by rule, regulation, or order reduce, suspend, or waive the application to any person or class of persons, of the fees or any portion thereof upon a finding that such section is necessary to prevent or correct any significant adverse effect upon any market or person occasioned by such fee.

"(e) The Commission shall create, prior to or after the effective date of this section, an advisory committee pursuant to the Federal Advisory Committee Act, comprised of persons materially affected by the operation of this section. Such advisory committee shall remain in existence until June 30, 1985. The advisory committee shall be empowered to advise the Commission with respect to the efficacy of the fee system created by this section, to consult with the Commission with respect to actions taken under subsection (d) hereof, to prepare a report containing its assessment and recommendations with respect to the fee system, and to perform such other duties and functions as the Commission may prescribe. Such report, together with the views and recommendations of the Commission, shall be submitted to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate no later than June 30, 1985.".

Industry/NFA Bill

(Repeals section 26 of the 1978 legislation; authorizes the CFTC pursuant to sections 8a (4) and 17 of the Act and section 501 of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) to prescribe fees and charges for any work or service performed taking into consideration the cost of the Government and the direct benefit and value to the recipient. (Sec. 24.))

SEC. 24. (a) Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) is repealed.

(b) A new subsection (e) is added to section 12 of the Commodity Exchange Act (7 U.S.C. 16) to read as follows:

"(e) As authorized under section 501 of the Independent Office Appropriations Act (31 U.S.C. 483a), and in addition to the provisions of paragraph 4 of section 8a and subsection (d) of section 17 of this Act, the Commission may prescribe by regulation for any work, service, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by the Commission such fee, charge, or price as it shall determine to be fair and equitable taking into consideration the cost to the Government and the direct benefit and value to the recipient. All amounts so collected shall be paid into the Treasury as miscellaneous receipts.".

CONFLICTS OF INTEREST

A. "Revolving Door" Provision

Current Law

(Section 2(a)(7)(B) of the Act enacted in 1978 generally prohibits any former Commissioner or employee classified as GS-16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character from making any appearance before or communication to the CFTC for a period of one year after that individual leaves the CFTC.)

SEC. 2. (a)(7)(A) No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this Act during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

(B) No Commissioner or employee of the Commission classified as a GS-16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

(i) make any appearance before the Commission, or

(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission, if such last day of service is more than four months after the date of enactment of this subparagraph. The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.

Proposed Amendment

H.R. 5447

(Repeals section 2(a)(7)(B). (Subsequently enacted Government-wide ethics legislation, the Ethics in Government Act of 1978 (18 U.S.C. 207(c)), makes comparable restrictions applicable to former Commissioners and most Senior Executive Service employees). (Sec. 1(b).))

SECTION 1. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(b)(1) By redesignating subsection 2(a)(7)(A) (7 U.S.C. 4a(f)(1)) as subsection 2(a)(7).

(2) By striking out existing subsection 2(a)(7)(B) (7 U.S.C. 4a(f)(2)).

B. INSIDE TRADING

Current Law

(Section 9(d) of the Act bars Commission members and employees from engaging in commodity futures or options transactions and from participating in investment transactions in actual commodities. The bar on investment transactions does not apply generally to buying or selling agricultural commodities or livestock for use in or produced in a farming or ranching operation.

(Section 9(e) prohibits Commission members and employees from imparting non-public information with the intent of assisting another in any transaction in commodity futures, commodity options or actual commodities.)

SEC. 9. (d) It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity: *Provided*, That such prohibition against any investment transaction in an actual commodity shall not apply to a transaction in which such person buys an agricultural commodity or livestock for use in his own farming or ranching operations or sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

(e) It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is com-

monly known to the trade as an "option", "Privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty".

Proposed Amendment

H.R. 5447

(Extends the prohibitions in section 9 (d) and (e) to leverage transactions; adds to those existing exempted transactions in section 9(d) transactions by independent trustees of trusts established by Commission members or employees to engage in hedging transactions in connection with permitted farming or ranching operations and to lease oil, gas, or mineral rights owned by a Commissioner or employee; and authorizes CFTC members and employees to invest in Government securities and other financial instruments if the instrument is not regulated by the CFTC and non-public information is not used in making the investment decision. (Sec. 18 (b) and (c).))

SEC. 18. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended as follows:

(b) by amending subsection 9(d)—

(1) by inserting the following after "'decline guaranty',": "or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract,";

(2) by inserting the following at the end of the first proviso after the words "at least three months": ", nor to any transaction entered into by the trustee of a trust established by such person over which such person exercises no con-

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trol if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person"; and

(3) by adding a new proviso at the end thereof to read as follows: ": *And, provided further,* That such prohibition against any investment transaction in an actual commodity shall not apply to a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit or similar financial instrument if no nonpublic information is used by such person in such transaction"; and

(c) by inserting after the words "'decline guaranty'," in each place they appear in subsection 9(e) the following: "or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

REGULATORY EFFICIENCY AND ECONOMY; LIMITATION ON COMMISSION FUNCTIONS; REPORTS TO CONGRESS

Current Law

(Sections 8(f) and 17(n) of the Act require the CFTC to submit to Congress an annual report which must include information concerning the effectiveness of a registered futures association in regulating the practices of its members.)

Sec. 8. (f) The Commission shall submit to the Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this Act and its powers and functions under this Act.

Sec. 17. (n) The Commission shall include in its annual reports to Congress information concerning any futures associations registered pursuant to this section and the effectiveness of such associations in regulating the practices of the members.

Proposed Amendment

Industry/NFA Bill

(Declares the purpose of the Act to be a comprehensive system of self-regulation; directs the CFTC to endeavor to effect economies in its operations in light of existing or proposed self-regulatory programs, to avoid regulatory duplication, to promote self-regulation to the maximum extent feasible, and to limit CFTC functions and resources to monitoring, oversight and review of self-regulation except to the extent that Congress has specifically directed otherwise; and requires annual report to the Senate and House Agriculture Committees on CFTC's compliance therewith. (Sec. 23.))

Sec. 23. Section 2 of the Commodity Exchange Act is amended by adding a new paragraph (12) to subsection (a) thereof (7 U.S.C. 4a(k)) to read as follows:

"(12)(A) In recognition of—

(1) the intent and purpose of this Act to further and perfect a comprehensive system of self-regulation which functions at no cost to the Government and which provides and promotes fair and efficient risk-

shifting markets for the benefit of the nation as a whole;

(2) the Commission's primary statutory role and function as an oversight agency serving to benefit the nation's economy and citizens in general; and

(3) the paramount need for governmental economy and efficiency and regulatory restraint in order to achieve the full potential of the free enterprise system from which the nation's unparalleled economic achievements flow—

the Commission shall endeavor at all times to—

(a) effect economies in its operations and programs, including its levels of staffing and expenditures, in light of existing or proposed self-regulatory operations or programs;

(b) avoid regulatory duplication and redundancy between Commission and private-sector programs;

(c) in general further and promote self-regulation to the maximum extent feasible; and

(d) limit Commission functions and resources to monitoring, review and oversight except as otherwise expressly provided in this Act.

(B) The Commission shall file, on an annual basis with the Senate Committee on Agriculture, Nutrition, and Forestry and the House Agriculture Committee, a report demonstrating its continuing compliance with the directive of this paragraph (12).

(C) The provisions of this paragraph (12) shall not create any rights, liabilities, or obligations upon which actions may be brought against the Commission.".

PREEMPTION OF STATE AND LOCAL TAXES

Proposed Amendment

Industry/NFA Bill

(Prohibits State and local governments from imposing transaction, excise, privilege, or related taxes on commodity futures or option transactions or on services rendered directly in effecting such transactions. (Sec. 25.))

SEC. 25. A new section 3a is added to the Commodity Exchange Act (7 U.S.C. 3a) to read as follows:

"SEC. 3a. In recognition of the legislative findings of section 3 of this Act and to protect and promote the economic functions and benefits of futures and options trading regulated under this Act from uneconomic interference and burdens and to otherwise protect interstate commerce, no State, political subdivision thereof, or other governmental body shall impose any transaction, excise, privilege or related tax on or on the execution of any transaction—including any services rendered directly in effecting such transaction or execution—(a) involving a contract of sale of a commodity for future delivery traded or executed on a contract market designated pursuant to section 5 of this Act, or (b) involving any option to purchase or sell any commodity or any contract of sale of a commodity for future delivery which option is regulated under section 4c of this Act.".

DEALER OPTIONS

Current Law

(Section 4c(d)(1) of the Act permits grantors of options on a physical commodity domiciled in the United States who, on May 1, 1978, were in that business and in the business of buying, selling, producing, or otherwise using that commodity to grant options (notwithstanding the section 4c(c) ban) in accordance with CFTC regulations in effect on August 17, 1978 until thirty days after the effective date of CFTC regulations adopted under Section 4c(d)(2). Applicants for registration within thirty days after the effective date of those regulations may continue to grant options pending a determination by the CFTC as to registration.

(Section 4c(d)(2) of the Act requires the CFTC to issue regulations concerning the grant and offer of dealer options that include certain specified minimum requirements.

(The grantor and FCM must comply with any additional uniform reasonable terms and conditions the CFTC may prescribe, including registration with the CFTC.

(Section 4c(d) also allows the CFTC to permit persons not domiciled in the United States to grant dealer options under customer protection requirements substantially equivalent to those applicable to domestic grantors. Section 4c(d) also requires the CFTC to hold a hearing before terminating any person's right to grant, offer, or sell such options, including a finding that the continuation of the right is contrary to the public interest, but allows the CFTC to suspend that right pending a hearing if the CFTC determines that such activities present a substantial risk to the public interest.

(Section 4c(e) of the Act allows the CFTC to prohibit all or any commodity option transactions on a physical commodity, after notice and opportunity for a hearing on the record, if it determines that such options are contrary to the public interest.)

Sec. 4c. (d) Notwithstanding the provisions of subsection (c) of this section—

(1) any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity, may continue to grant or issuing options on that commodity in accordance with Commission regulations in effect on August 17, 1978, until thirty days after the effective date of regulations issued by the Commission under clause (2) of this subsection: *Provided*, That if such person files an application for registration under the regulations issued under clause (2) of this subection within thirty days after the effective date of such regulations, that person may continue to grant or issue options pending a final determination by the Commission on the application; and

(2) the Commission shall issue regulations that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution of, any commodity option transaction on a physical commodity subject to the provisions of subsection (b) of this section if—

(A) the grantor is a person domiciled in the United States who—

(i) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

(ii) at all times has a net worth of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

(iii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's net worth has fallen below $5,000,000;

(iv) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

(v) provides an identification number for each transaction; and

(vi) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

(B) the futures commission merchant is a person who—

(i) has evidence that the grantor meets the requirements specified in subclause (A) of this clause;

(ii) treats and deals with all money, securities, or property received from its customers as payments of the purchase price in connection with such transactions, as belonging to such customers until the expiration of the term of the option, or, if the customer exercises the option, until all rights of the customer under the commodity option transaction have been fulfilled;

(iii) records each transaction in its customer's name by the transaction identification number provided by the grantor;

(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction; and

(C) the grantor and futures commission merchant comply with any additional uniform and reasonable terms and conditions the Commission may prescribe, including registration with the Commission.

The Commission may permit persons not domiciled in the United States to grant options under this subsection under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States. The Commission may terminate the right to any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings, the Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

(e) The Commission may adopt rules and regulations, after public notice and opportunity for a hearing on the record, prohibiting the granting, issuance, or sale of options permitted under subsection (d) of this section if the Commission determines that such options are contrary to the public interest.

Proposed Amendment

Proposal of Dowdex Corporation

(Limits restrictions and requirements applicable to "dealer option" grantors to those set forth in section 4c(d)(2) of the Act.

(Permits off-exchange options of physical commodities to be offered, granted and sold by persons not in the business of buying, selling, producing or otherwise using the underlying commodity, i.e., to nondealers.

(Makes $5,000,000 net worth requirement only an alternative to a capital requirement that total assets exceed total liabilities, provided that dealer gives notice that its net worth is less than $5,000,000.

(Limits disclosure of costs, mark-ups and commissions to the extent "practicable and known".

(Permits termination of right to grant, offer or sell dealer options only after a hearing thereby eliminating right to suspend pending completion of termination hearing.

(Repeals CFTC authority to ban dealer options.)

Section 4c(d) be amended to read as follows:

"(d) Notwithstanding the provisions of [any sections delimiting or deliniating other commodity options, prohibitions, restrictions, and so forth]—

"(1) the Commission shall issue regulations, including registration with the Commission, that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution, of any commodity option transaction on a physical commodity, subject to the provisions of subsection (b) of this section if—

"(A) the grantor is a person who—

"(i) at all times has total assets in excess of total liabilities, or net worth, of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

"(ii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's total assets minus total liabilities, or net worth, has fallen below $5,000,000;

"(iii) segregates daily, exclusively for the benefit of purchasers, money, exempted securities [within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)], commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transactions;

"(iv) provides an identification number for each transaction; and

"(v) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

"(B) * * *

"(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, to the extent practicable and known, all costs, or methods and factors of determining such costs, including the markups or commissions involved in such transactions.

"(C) REPEALED.

"The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest.".

Section 4c(e) should be repealed.

EXPORT SALES REPORTING

Current Law

(Section 812 of the Agricultural Act of 1970 requires exporters of United States-produced agricultural commodities to report weekly to the Secretary of Agriculture information on export sales contracts regarding type, class, and quantity of the commodity sought to be exported, the year of shipment and destination, if known. Individual reports remain confidential but are compiled and published weekly in compilation form following the week of reporting. Immediate reporting of export sales may be required by the Secretary and, if so, information compiled is published daily. Violations are subject to criminal penalties.

(SEC. 812. All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may, with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales, provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.)

Proposed Amendment

H.R. 624 by Mr. Neal Smith of Iowa

(Amends section 812 to require exporters to report information daily, rather than weekly, concerning any sale for export or agreement to sell any agricultural commodity for export, directly or indirectly. Information must include, in addition to information now required, the indentity of the buyer and buyer's relationship to exporter. Compilations of such report must be published within forty-eight hours of the sale or agreement. In addition to current remedies, the Secretary can assess civil penalties, or, in addition to or in lieu thereof (i) issue an order finding that the exporter had violated the section and refer the order to the CFTC which must then require exchanges to deny trading privileges to such person for a period up to one year for each violation, or (ii) issue a complaint to the CFTC which may direct exchanges to deny such trading privileges for up to one year.)

"EXPORT SALES REPORTING

"SEC. 812. (a) All exporters of wheat and wheat flour, feed grains, oil seeds, cotton, and products thereof and other commodities the Secretary may designate shall report to the Secretary, on a daily basis, the following information regarding any sale for export or agreement to sell for export either directly or indirectly of any such commodity, entered into or modifed in any manner during the reporting period: (1) type, class, and quantity of the commodity, (2) the marketing year of shipment, (3) destination, if known, and (4) the identity of the buyer, and the buyer's relationship, if any, to the exporter. Individual reports shall remain confidential, but shall be compiled by the Secretary and published in compilation form within forty-eight hours of the sale or agreement. All exporters of agricultural commodities shall upon request of the Secretary immediately report to the Secretary any information with respect to sales for export or agreements to sell for export of agricultural commodities and at such times as he may request.

"(b)(1) Any person who violates this section by failing to report export sales or agreements to sell pursuant to the requirements of this section, or who otherwise violates any provision of this section or any regulation of the Secretary issued thereunder, shall be assessed by written order of the Secretary a civil penalty of up to $25,000 or an amount not to exceed the product of five cents per bushel multiplied by the number of bushels not timely reported for each such violation. Each day any failure to report continues shall be considered a separate violation. No penalty may be assessed by the Secretary unless the person is given notice and opportunity for a hearing on the record in accordance with sections 554 through 557 of title 5 of the United States Code.

"(2) Any civil penalty assessed pursuant to this section may be compromised by the Secretary. Upon any failure to pay the penalties assessed under this section, the Secretary may request the Attorney General to institute a civil action to collect the penalties in any appropriate United States district court, and such court shall have jurisdiction to hear and decide any such action. Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury.

"(3) In addition to, or in lieu of, the monetary penalties provided under this subsection, the Secretary may—

"(A) issue an order finding that any person has violated this section by failing to report export sales or agreements to sell pursuant to the requirements of this section, or has otherwise violated any provision of this section or any regulation of the Secretary issued thereunder. No such order may be issued unless the person is given notice and opportunity for a hearing on the record in accordance with sections 554 through 557 of title 5 of the United States Code. Upon issuance of an order under this paragraph the Secretary shall transmit a certified copy thereof to the Commodity Futures Trading Commission which shall thereupon, without further proceedings, issue an order prohibiting such person from trading on or subject to the rules of any contract market and directing all contract markets to refuse all trading privileges to such person for such period, not to exceed one year for each violation, as shall be specified in the Secretary's order. Notwithstanding any provision of the Commodity Exchange Act, issuance of such an order by the Commodity Futures Trading Commission shall be deemed to meet all requirements of such Act; and in addition to or in lieu of the order referred to above,

"(B) issue a complaint and submit such complaint forthwith to the Commodity Futures Trading Commission which may thereupon, pursuant to such expedited procedures as the Commission shall by regulation establish, prohibit such person from trading on or subject to the rules of any contract market and direct all contract markets to refuse all trading privileges to such person for such period, not to exceed one year for each violation. Compliance with the provisions of this section is considered a condition precedent to any exporter entering the commerce of the United States through use of the contract markets.

"(4) Any person against whom an order has been issued by the Secretary of Agriculture may obtain review of such order by filing a written petition in an appropriate United States court of appeals. A copy of such petition shall be transmitted by the clerk of the court to the Secretary who thereupon shall file in the court the record made, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction to affirm, set aside, or modify the order of the Secretary, and the findings of the Secretary, as to the facts, if supported by the weight of the evidence, shall be conclusive.

"(c) For the purposes of this section, the Secretary shall at all reasonable times have access to, for the purpose of examination and the right to copy, all books and records and any documentary evidence of any person subject to the provisions of this section. The Secretary may require, by regulation, all persons subject to this section who are located outside of the United States to agree to permit such access, examination, and copying and refusal of any such person to agree to permit or to permit such access, examination and copying shall be the basis for a complaint and subject to the sanctions provided in this section.

"(d) As used in this section—

"(1) the term 'exporter' means any United States person who, as part of his normal business or otherwise, directly or indirectly, enters into any sale or agreement to sell for export of an agricultural commodity;

"(2) the term 'person' includes any individual, partnership, corporation, or other form of association;

"(3) the term 'United States person' means any person who holds, directly or indirectly, on the United States contract markets total positions in any commodity subject to daily reporting requirements hereunder on such United States contract markets to the extent that such person is considered to be in excess of speculative limits, as defined by the regulations of the Commodity Futures Trading Commission or in excess of such limits as may be established by the Secretary in the case of commodities for which there are no speculative limits; and

"(4) the term 'Secretary' means the Secretary of Agriculture.

"(e) The Secretary is authorized to issue such rules and regulations as may be necessary to implement this section.".

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SUMMARY OF REAUTHORIZATION HEARINGS FOR THE COMMODITY FUTURES TRADING COMMISSION

Prepared by

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Environment and Natural Resources Policy Division

March 26, 1982

SUMMARY OF REAUTHORIZATION HEARINGS FOR THE COMMODITY FUTURES TRADING COMMISSION

INTRODUCTION

On February 23, 1982, Chairman Ed Jones of the Subcommittee on Conservation and Credit convened three days of hearings to consider H.R. 5447, legislation introduced by request to reauthorize the Commodity Futures Trading Commission (CFTC). Reauthorization of this agency has become a quadrennial exercise because of the sunset provision in 7 U.S. C. § 16d, the Commodity Exchange Act, as amended.

After brief opening statements, the Subcommittee heard testimony from the Chairman of the CFTC, Philip Johnson, the Comptroller General of the United States, Charles Bowsher, Representative Neal Smith, leaders of a number of commodity exchanges, representatives of various trade associations, spokesmen from several futures commission merchants and leverage contract firms and representatives of State securities commissions.

Most witnesses supported extension of the authority of the CFTC, while differing on how the reauthorization should be accomplished. Industry witnesses, for example, suggested that only fine tuning of the statute was needed; many, in fact, advocated an alternative proposal to accomplish this purpose, the Futures Trading Regulatory Improvements Act of 1982. The CFTC, on the other hand, suggested its more comprehensive amendments, embodied in H.R. 5447, were necessary so that the agency could streamline its operations and more effectively perform its regulatory functions.

Subsequent to the hearings, the Subcommittee received correspondence from the Treasury Department endorsing the provisions of H.R. 5447. The Department of Agriculture has also indicated general support for the legislation.

Several witnesses focused on specific provisions in the Commodity Exchange Act, such as the leverage contract section or the provisions regarding exclusive jurisdiction, while others testified about a broad range of topics. The testimony was both informative and illustrative of the kinds of issues the Subcommittee will be asked to deal with during the reauthorization process.

REAUTHORIZATION OF THE CFTC

While most witnesses agreed with the basic premise that the CFTC should be reauthorized, there was some disagreement as to how long the extension should be. H.R. 5447 calls for a four year renewal of the agency, and the American Cotton Shippers Association advocated a reauthorization period of not more than five years in order to assure continuity of Congressional oversight. Representatives of the Kansas City Board of Trade, however, suggested that a six to ten year reauthorization would conserve the time and energy of both the industry and government. The National Association of Futures Trading Advisors agreed that the agency should be given a longer mandate in order to allow it to marshall its resources more effectively to improve protection of the public.

JURISDICTIONAL AGREEMENT WITH THE SEC

Chairman Johnson outlined the CFTC's agreement with the Securities and Exchange Commission (SEC), which ended eight years of bickering between the two regulators. He noted that under the agreement, the CFTC would retain exclusive jurisdiction over all futures trading and all options on futures. The SEC would be given exclusive jurisdiction to regulate options on securities, while the two agencies would share responsibilities for stock index futures and for options on foreign currencies.

While a number of witnesses seemed willing to go along with the two agencies' accord, reaction to the proposal was not wholly favorable. The President of the Chicago Board of Trade, Robert Wilmouth, for example, expressed the following concerns:

> The rationale for maintaining the CFTC and SEC as two separate agencies has always been that the regulation of futures trading is the "horizontal regulation" of a function — that is, the trading of risk-shifting instruments. .... The function of the SEC since its formation has been to regulate and preserve the capital formation markets. The CFTC-SEC agreement to divide jurisdiction over certain risk-shifting instruments blurs this distinction ... and ... lays the foundation for attempts to merge the two agencies, which we think would be very unwise .... and particularly dangerous to American agriculture.

This theme was echoed by Dr. Clayton Yeutter of the Chicago Mercantile Exchange who suggested that the "accord should be modified by Congress to preserve the traditional and logical distinctions between the agencies." John Conheeney of Merrill Lynch expressed similar sentiments when he urged that the SEC's role over commodity pools should be limited to capital formation activities. In a statement submitted for the record by ContiCommodity Services, that organization expressed opposition to any jurisdictional sharing of responsibility between the CFTC and the SEC.

Several witnesses expressed concern that the SEC role in approving stock index futures amounted to a veto power or, alternatively, would serve to lengthen and complicate contract approval time. Moreover, a number of those appearing before the Subcommittee suggested that before it approved the jurisdictional accord, the Subcommittee should seek assurances from those House committees with jurisdiction over the securities industry that they, too, would endorse the agreement.

EXCLUSIVE JURISDICTION - THE ROLE OF THE STATES

Chairman Johnson outlined two revisions in the H.R. 5447 designed to provide for a greater enforcement role for the States while preserving the CFTC's exclusive jurisdiction over futures trading: an "open season" provision and an information sharing section. Under the open season provision, "every Federal and State law enforcement agency would be empowered to use any available law, regulation, ordinance or other tool ... to attack off-exchange frauds masquerading as "commodity" investments...." Additionally, the States would be authorized to proceed against persons who failed to register with the CFTC. The information sharing section would allow the CFTC to share, for law enforcement purposes only, confidential data the States might use in policing commodity frauds. Chairman Johnson made clear, however, that these provisions were not intended to alter the existing exclusive jurisdiction of his agency with respect to the regulation of registered firms, such as registered commodity pool operators.

The Commission's proposal garnered some support. Particularly with regard to commodity pools, several witnesses agreed that the CFTC should be given explicit exclusive jurisdiction. The agency's suggestions were criticized by a panel of State securities commissioners, however, who suggested that Congress should go further in defining an enforcement role for the States, to include authority over exchange as well as off-exchange transactions. This panel also urged Congress to give the States concurrent jurisdiction over registration of persons dealing in leverage contracts.

The State securities commissioners' proposal was opposed by at least one industry organization, ContiCommodity Services, which argued that "[a]ny regulation of the industry by the states would merely duplicate existing regulation and would likely subject the industry to conflicting standards governing the same conduct." Additionally, the President of the International Futures Exchange (INTEX) of Bermuda asked the Subcommittee to modify the language in the open season provision of H.R. 5447 to make clear that foreign futures would be subject to CFTC's exclusive jurisdiction and not to State oversight. Speaking on behalf of several London exchanges, a representative of Arnold and Porter reiterated this view, suggesting that the open season provision could "raise serious problems of extraterritoriality" and "create a significant barrier to free international trade." The London exchanges also took the position that the information sharing section of the bill should be deleted because the problems in protecting confidentiality of trade information were too serious to outweigh any of the proposal's benefits.

USER FEES

By far, the issue which engendered the most debate was the topic of user fees. The CFTC has proposed a transaction fee to be paid by market users. The rate of the assessment would vary, however, depending on whether or not the user is a member of a self-regulatory organization, such as the National Futures Association (NFA). For each futures contract or option made for the benefit of any person who is not a member of a self-regulatory group, the fee would be 12 cents per side; for each contract or option made for the benefit of any person who is a member of a self-regulatory group, the fee would be 6 cents per side. For dealer options and leverage contracts, the fees would be $3 for each. Under the CFTC plan, all fees would be remitted directly to the U.S. Treasury.

The agency has asked for authority to suspend the assessment of these fees when the amounts collected exceed the Commission's current budget for the fiscal year or if the Commission finds that the fees are having a significant adverse effect on the operations of either the markets or any person. Additionally, the agency plans to establish an advisory committee of affected market users to study the user fee system and report to Congress about it by June 30, 1985.

There was some support for the concept of user fees, although not necessarily for the agency's proposal. While he made no recommendations on the CFTC's user fee proposal, the Comptroller General, testifying on the basis of a General Accounting Office audit, recommended that a one-time charge be assessed against exchanges for contract approvals. The American Farm Bureau Federation presented a statement favoring a modified user fee. Speaking on behalf of this organization, Bruce Hawley suggested that:

> We will support a user fee schedule for the CFTC in which there is a more direct relationship between the fee and the benefit, i.e., a fee on contract registration, company and individual registration, and audits. We will also support a user fee on each transaction if it is designed to recover the regulatory cost of the transaction only, and if a cap is placed on the total amount of collections.

Officials from the Kansas City Board of Trade made a similar suggestion when they urged Congress to consider:

> [S]egregating the CFTC's budgeted expenditures which relate to market surveillance in the "public interest" and funding those expenditures through congressional appropriation, at the same time establishing realistic users fees which relate solely to specific services provided by the CFTC, such as registration of brokers and associated persons, new contract proposals by exchanges, etc.

The National Cattlemen's Association argued that user fees should be phased in and that a portion of the amount collected should be ear-marked for research of importance to the contract on which the fees were collected.

Most other witnesses were vehement in their opposition to the notion of users fees. Speaking for the newly-created NFA, Leo Melamed argued that the user fee proposal would "deprive the NFA of its funding base, destroying the underlying reasons for its creation ... and remove the single most effective incentive of a self-regulatory organization — to prevent duplicative oppressive regulation." Other witnesses argued that user fees would have serious repercussions, discouraging traders from the markets and thus reducing the effectiveness of the markets' functions. Several witnesses argued that the ultimate costs of user fees would be borne by producers who can ill-afford this additional burden. Additionally, sevveral people pointed out that since the general public benefits from futures markets, the public should share the costs of regulating.

REGULATORY POWERS: MARGINS, SPECULATIVE LIMITS, CONTRACT APPROVALS, EMERGENCY AUTHORITY TO INTERVENE

A number of witnesses addressed issues concerning the regulatory weapons of the CFTC, including margin setting authority, power to set speculative limits, and the process by which contracts are approved for trading.

Although the CFTC has not asked for margin setting authority, several witnesses discussed this power. The Chairman of the National Affairs Committee of the Independent Bakers Association (IBA), for example, urged Congress to give the CFTC authority to set margins for nonbusiness-related speculation in order to protect smaller market users. The IBA also recommended that the CFTC be empowered to curb hedgers from buying and selling futures in excess of their business-related needs. The group did suggest that professional traders whose actions are required for orderly markets be exempt from this curb. The Futures Industry Association, on the other hand, argued that no Federal agency should be given margin setting authority since the exchanges were best suited to exercise this authority. Lee Berendt of COMEX suggested that shifting marging setting authority to a Federal agency "could only lead to drastically increased costs and disastrous effects on futures markets.

The American Agriculture Movement presented a statement arguing that the CFTC has failed to perform its regulatory mission because it has "defaulted in its responsibility to effectively limit or to abolish speculative short selling of the commodities as required by the Act of Congress."

Chairman Johnson of the CFTC noted that while the Commission has required by rulemaking that contract markets adopt speculative position limits on the contracts they trade, the agency is asking Congress to approve both the authority of the CFTC to set position limits by rulemaking and language specifying that the limits set by exchanges may not differ from those set by the Commission, unless the CFTC approves. Under the CFTC's proposal, a violation of an exchange position limit would also be a violation of the Commodity Exchange Act.

Many of the exchange witnesses agreed with one characterization of this proposal as "dubious at best." They argued that giving the CFTC power to set speculative position limits by rule rather than by formal hearings would be unwarranted expansion of agency powers at a time when deregulation rather than increased agency intervention should be the goal.

The CFTC has not asked Congress for language delimiting the time within which new contracts must be approved, but this power is one that was advocated by a number of witnesses, particularly those representing exchanges. The President of the Chicago Board of Trade also suggested that new contracts be approved on the basis of a "hedging or risk management" test, rather than on the basis of a "public interest" test. Representative Neal Smith questioned the current contract approval process and suggested that Congress may want to make clear that the CFTC has the authority to turn down new contracts, particularly any which do not involve signficiant amounts of bona fide hedging. The GAO also made suggestions about improving the contract approval process. The agency advocated, for example, that the CFTC should undertake a systematic review of existing contracts to determine that they provide for price discovery or risk shipfting and protect against price manipulation and market congestion.

Although the CFTC has not asked for any change in its current emergency power to intervene in the markets when circumstances warrant, most of the industry witnesses suggested that Congress should specifically provide for judicial review of such agency decisions. Some other witnesses, however, agreed with the CFTC's position. The National Farmers Union, for example, likened the imposition of judicial review on the emergency power authority to "passing a 55 mile per hour speed limit with no violation penalty."

REPARATIONS

While there appeared to be agreement that the commodity reparations program has not functioned as intended, the witnesses who addressed this point indicated some disagreement on how the program should be restructured. The Commission wants to delete those commodity professionals "required to be registered" under the Act from the coverage of reparations because of severe problems it has had in obtaining jurisdiction over such "outlaw firms." The agency also wants to eliminate the need for full evidentiary hearings for claims in excess of $5,000 and to delete the requirements of the Administrative Procedure Act which governs the conduct of reparation hearings. Concurrently, the agency has proposed that the $15,000 limit on disputes subject to arbitration be lifted to encourage the use of this dispute resolution mechanism.

The GAO has also advocated that the CFTC make arbitration a more attractive alternative to reparations, but under their proposal, the dollar limit for arbitration claims would not be lifted, but merely increased to $25,000. The GAO, however, would give the CFTC authority to raise the limit to reflect changes in the Consumer Price Index to a maximum of $50,000. The GAO also urged Congress to clarify whether a private right of action exists under the Commodity Exchange Act while representatives of COMEX opposed any attempt by Congress to resolve this issue, at least until the Supreme Court rules on four pending cases which raise the question.

Charles Nastro, representing a subcommittee on the Committee on Commodities Regulation of the Association of the Bar of the City of New York, argued for a two-tiered reparations program. Under this program, claims under $10,000 would be handled through an agency-administrated arbitration forum at least until the NFA could assume the duties involved in such a program. For claims in excess of $10,000, however, full hearings before an administrative law judge would be required.

AGRICULTURAL OPTIONS

Although H.R. 5447 does not include a provision revoking the ban on agricultural options trading, several witnesses addressed this issue. The National Grain and Feed Association indicated that while they might support agricultural options at some future time, "at this particular time ... we believe it would not be appropriate to introduce such legislation." This concern was echoed by the National Farmers Union, although the American Farm Bureau Federation indicated support for an options program for farm commodities.

The Department of Agriculture has advised the Subcommittee that it endorsed a removal of the existing ban on agricultural options, provided that no new program be initiated until after the CFTC and the commodity exchanges have completed their pilot program on options trading in other commodities. The Department believes that if that pilot program is successful and if procedures are developed to control trading abuses, agricultural options might be a benefit to producers, particularly small and medium size operators.

LEVERAGE CONTRACTS

The CFTC's proposal for reauthorization includes a provision which would extend for two years the existing moratorium on the entry of new leverage firms and the introduction of new leverage contracts, until the completion of a study of the issue. Several witnesses appeared specifically to challenge this section of the agency's bill, arguing that the additional two year moritorium is unwarranted and an abuse by the CFTC of a clear mandate from Congress to regulate these instruments.

STANDARDS OF LIABILITY

In H.R. 5447, the CFTC has asked Congress for authority to make clear that any person who controls, directly or indirectly, any other person or entity which violates the Act, would himself be liable as a principal unless he did not know nor had reason to know of the facts constituting a violation. This proposals met with strong resistance from many witnesses who argued that the imposition of liability should not be allowed for mere negligence or inadvertance and that the section would cause serious problems for parent companies who could be held liable for activities by their separate subsidiaries.

INTRODUCING BROKERS

The agency has also asked Congress for authority to eliminate the concept of "introducing broker" and require these people to be considered as associated persons of futures commission merchants (FCMs). Introducing brokers solicit and accept commodity futures business and deal with customers as do FCM's except that the customers' trades are cleared and funds deposited with an FCM. A number of individuals spoke in opposition to the agency's change in status for these people, arguing that the revision is not only anti-competitive, but that it would eliminate many small businesses from the industry.

AMENDMENT BY MR. FITHIAN

Section 4c of the Commodity Exchange Act is amended by--

(1) striking out clause (B) of subsection (a);

(2) redesignating clause (C) of subsection (a) as clause (B);

(3) in subsection (b), striking out the following phrases: (a) "subject to the provisions of subsection (a) of this section", (b) ", but not specifically set forth in section 2(a) of this Act, prior to the enactment of the Commodity Futures Trading Commission Act of 1974,", and (c) "within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time"; and

(4) in subsection (c) inserting immediately before the period at the end of the first sentence the following: ": Provided, That with respect to commodities regulated under this Act and specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, authorize a pilot program for a period not to exceed three years to permit such commodity option transactions if such authorization does not apply to more than one such commodity at any board of trade approved therefor by the Commission, and beginning three years following the authorization of such pilot program, the Commission may authorize transactions in such commodities at contract markets approved therefor without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of 60 calendar days of continuous session of Congress after the date of such transmittal ".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, March 30, 1982

(Sub) Committee :Conservation, Credit, and Rural Development

Meeting: Business Meeting -- p.m.

Subject: Commodity Futures Trading Commission Reauthorization

Bill Nos. H.R. 5447 Committee Print

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 2:40 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Dorgan
Mr. English
Mr. Fithian
Mr. Richmond
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts (Ka.)
Mr. Gunderson
Mr. Evans
Mr.
Mr.
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Mr.

Staff present:

Bob Bor, Chief Counsel
Bob Lowerre, Associate Counsel
John Hogan, Minority Counsel
Bernie Brenner, Press Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant

Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant
Roger Allbee, Minority Consultant

Witnesses:

The following represented the Commodity Futures Trading Commission and responded to questions concerning the legislation, as well as interpretation of amendments and current law:

1. Hon. Philip McBride Johnson, Chairman, Commodity Futures Trading Commission.

Statements Filed:

Tuesday, March 30, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
Commodity Futures Trading Commission
Reauthorization
H.R. 5447 Committee Print

Action Taken:

-- Without objection English revised his amendment to section dealing with execution of futures contracts on domestic exchanges and foreign exchanges to include suggestion of CFTC.

-- By unanimous voice vote English proposal, as revised, to section on execution of futures contracts on domestic exchanges; and sale of contracts executed on foreign exchanges approved.

-- Without objection Evans proposal on legislative findings section approved.

-- By voice vote legislative findings section adopted with Evans amendment.

-- By unanimous voice vote Evans amendment permitting Commission to vary limits during last period of the market agreed to.

-- By unanimous voice vote Glickman amendment granting authority to fix position limits retroactively adopted.

-- By voice vote section on speculative limits adopted, as amended by Mr. Evans and Mr. Glickman.

-- By voice vote section dealing with large trader reports approved.

-- Without objection English suggestion to add consultants to commodity pool operators or trading advisors to registration section agreed to.

-- By voice vote section on commodity pool operators and commodity trading advisors approved as amended by Mr. English.

-- By voice vote Richmond motion to approve proposal on term of registration adopted.

-- By unanimous voice vote Glickman motion to approve proposal on agents adopted.

-- By voice vote Glickman motion to approve proposal on testing approved.

-- Without objection report language suggested by Mr. Bedell and Mr. Jeffords approved on role of States.

-- By unanimous voice vote Jeffords proposal protecting role of states adopted.

-- Without objection Glickman proposal on National Futures Association withdrawn for consideration on issue of user fees.

Tuesday, March 30, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
Commodity Futures Trading Commission
Reauthorization
H.R. 5447 Committee Print

(Note: All page references on explanations, motions, and amendments are to the Committee Print attached to the minutes of March 30, 1981 a.m. meeting. Explanations of the proposals are also included in the Committee Print.)

Chairman Jones (Tenn.) called the meeting to order and recognized Counsel Bor to explain the provisions of the sections dealing with execution of futures contracts on domestic exchanges; and sale of contracts executed on foreign exchanges beginning on page 18 of the Committee Print.

Discussion occurred and Mr. English moved to approve the language contained in the Committee Print on pages 18, line 1, through page 20, line 9, together with the attached amendment which had been approved by the Senate Committee during its deliberations.

Commissioner Johnson pointed out that there were a few differences. He suggested that a sentence be inserted on line 12 of the English amendment following the word "possessions." as follows: "Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade or market on which such contracts are made."

Discussion occurred and Mr. English asked unanimous consent that his amendment be revised to include the language suggested by the Commissioner. There was no objection.

Mr. Glickman stated that he would not offer but had considered adding the following language at the end of the English amendment: "or (3) places the business of soliciting and accepting orders, within the U.S., its territories or possessions, for any contract of sale of a commodity for future delivery which is made or to be made on or subject to any such board of trade, exchange or market at a competitive disadvantage in relation to the business of soliciting and accepting orders for contracts of sale of a commodity for future delivery traded or executed on any contract market designated pursuant to section 5 of this Act."

Discussion continued and by a unanimous voice vote the English proposal as revised was approved.

Counsel Bor explained the provisions of the section on legislative findings on page 20 of the Committee Print. Discussion occurred and Mr. Evans suggested that the language found on lines 1 through 4 on page 21 of the Committee Print be included and there was no objection. Mr. Jeffords moved the adoption of the section on legislative findings and by a voice vote the motion was approved.

Tuesday, March 30, 1982
Conservation, Credit, and Rural
  Development Subcommittee
Business Meeting -- p.m.
Commodity Futures Trading Commission
  Reauthorization
H.R. 5447 Committee Print

Counsel Bor explained the provisions of the section on speculative limits and discussion occurred. Mr. Evans offered the attached amendment which would permit the Commission to vary limits in the last period of the market. Discussion occurred and by a unanimous voice vote the Evans amendment was adopted.

Mr. Glickman offered the attached amendment to section 8a of the Commodity Exchange Act to provide the Commission, in emergency situations, with authority to fix position limits retroactively. Discussion occurred and by a unanimous voice vote the Glickman amendment was adopted.

Mr. Jeffords moved to adopt the language of the CFTC found on pages 22 and 23 of the Committee Print, as amended by the Evans and Glickman amendments. By a voice vote the motion was agreed to.

Chairman Jones (Tenn.) reserved the right for Mr. Harkin to offer an amendment to this section.

Counsel Bor explained the provisions of the section dealing with large trader reports on page 25 of the Committee Print. Chairman Jones (Tenn.) asked if there was objection to the proposal of the CFTC found on pages 25, line 7, through page 27, line 2, and by a voice vote the language was approved as explained.

The provisions applying to commodity pool operators and commodity trading advisors under the registration section were explained by Counsel Bor. The language of the CFTC proposal is found on page 27, line 3 through page 30, line 20.

Chairman Johnson of the CFTC advised the Senate had included persons acting as consultants to a commodity pool operator or trading advisor. Mr. English moved that the suggestion of the Chairman be included and without objection the motion was agreed to. By a voice vote the section was then approved, as amended.

Counsel Bor explained the provisions on page 30 dealing with the term of registration. Mr. Richmond moved the adoption of the proposed amendment of the CFTC found on page 31, lines 1 through 16. By voice vote the motion was adopted.

Counsel Bor explained the provisions of the section dealing with agents beginning on page 31 of the Committee Print. Mr. Glickman moved that the Subcommittee adopt the CFTC proposal found on page 32, line 1,through page 33, line 17. By a unanimous voice vote the proposal was adopted.

Tuesday, March 30, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
Commodity Futures Trading Commission
Reauthorization
H.R. 5447 Committee Print

Counsel Bor explained the provisions of the section on testing found on page 37 of the Committee Print. Discussion occurred and Mr. Glickman moved the adoption of the language on page 38, line 1, through page 39, line 3. By a voice vote the proposal was approved.

The proposal of the North American Securities Administrators Association on the role of the States was explained by Counsel Bor. The language is found on page 39 of the Committee Print. Discussion occurred and he advised that the Senate had adopted comparable language.

Mr. Jeffords offered the attached amendment which he felt would protect the States, in lieu of the NASAA proposal. Discussion occurred. Mr. Bedell and Mr. Jeffords suggested that amplifying language be inserted in the Committee report to indicate that the Commission should cooperate fully and attempt to assist States in problems where matters are brought to their attention and require action. Without objection the report language was approved. By a unanimous voice vote the Jeffords proposal was then adopted.

Counsel Bor explained the provision on page 40 of the Committee Print on delegation of registration functions. Mr. Glickman offered the attached amendment dealing with the National Futures Association. Discussion occurred and without objection Mr. Glickman withdrew the proposal to offer at the time the user fee issue is considered.

The proposal of the CFTC dealing with delegation of registration functions appears on page 40, line 15 and ends on page 41, line 24. Discussion continued on the proposal. Chairman Johnson stated the Senate adopted the proposal except for lines 14 through 21 on page 41. Discussion continued and without objection final consideration of the section was deferred.

At 4:10 p.m. the meeting was adjourned to reconvene at 9:30 a.m. on Wednesday, March 31, to continue consideration of amendments to the Commodity Exchange Act.

Glenda Temple

"(b). The Commission may adopt rules and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk and reporting requirements, the keeping of books and records, the safeguarding of customer funds, and registration with the Commission by any person located in the United States, its territories, or possessions who engages in the offer and sale of any contract of sale of a commodity for future delivery which is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. No rule or regulation shall be adopted by the Commission under this subsection which (1) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such market; or (2) requires Commission approval of any contract, rule, regulation, or action of any such market or its clearinghouse."

AMENDMENT TO H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Page 22, after line 2, insert the following:

(a) in paragraph (1) by adding after the words "delivery months" the words "or for dfferent number of days remaining until the last day of trading of a contract,";

Page 22, line 3, strike out "(a)" and insert in lieu thereof "(b)".

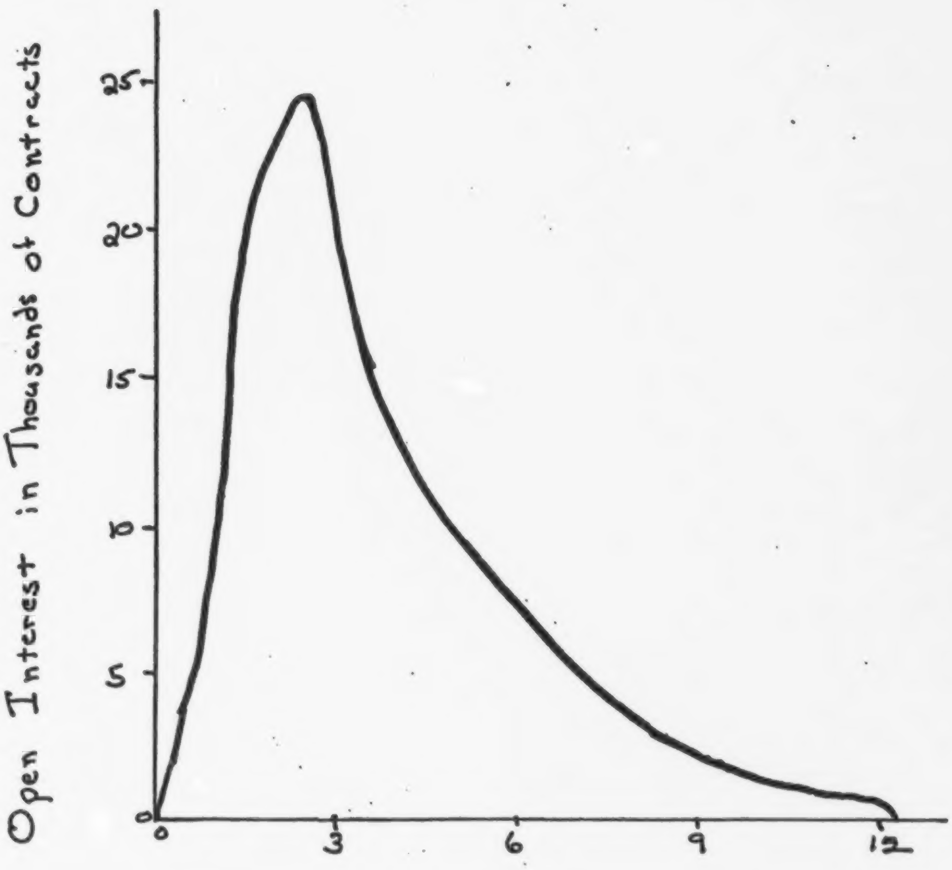
Page 22, line 4, strike out "(b)" and insert in lieu thereof "(c)".

Page 22, line 5, strike out "(c)" and insert in lieu thereof "(d)".

Page 22, line 6, strike out "(d)" and insert in lieu thereof "(e)".

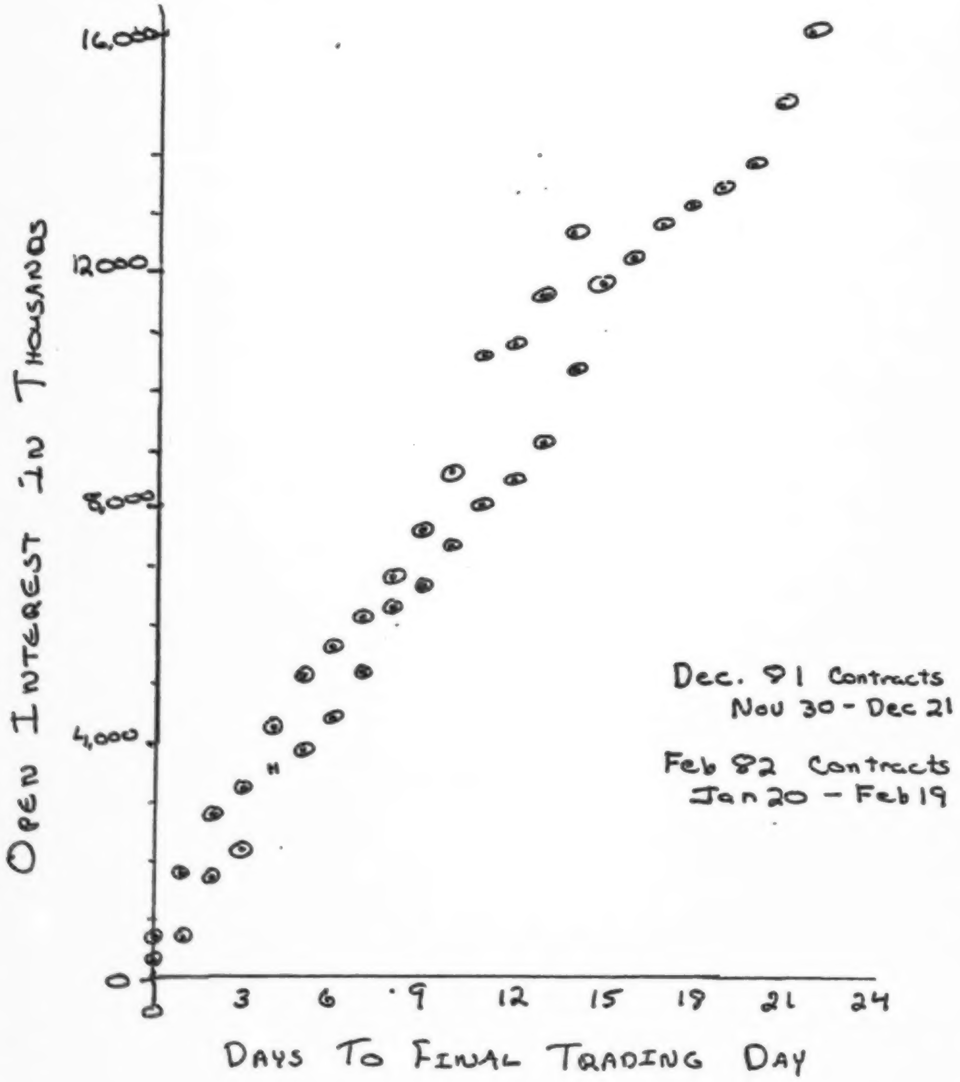
Page 22, line 7, strike out "(e)" and insert in lieu thereof "(f)".

OPEN INTEREST
IN
LIVE CATTLE FUTURES CONTRACTS

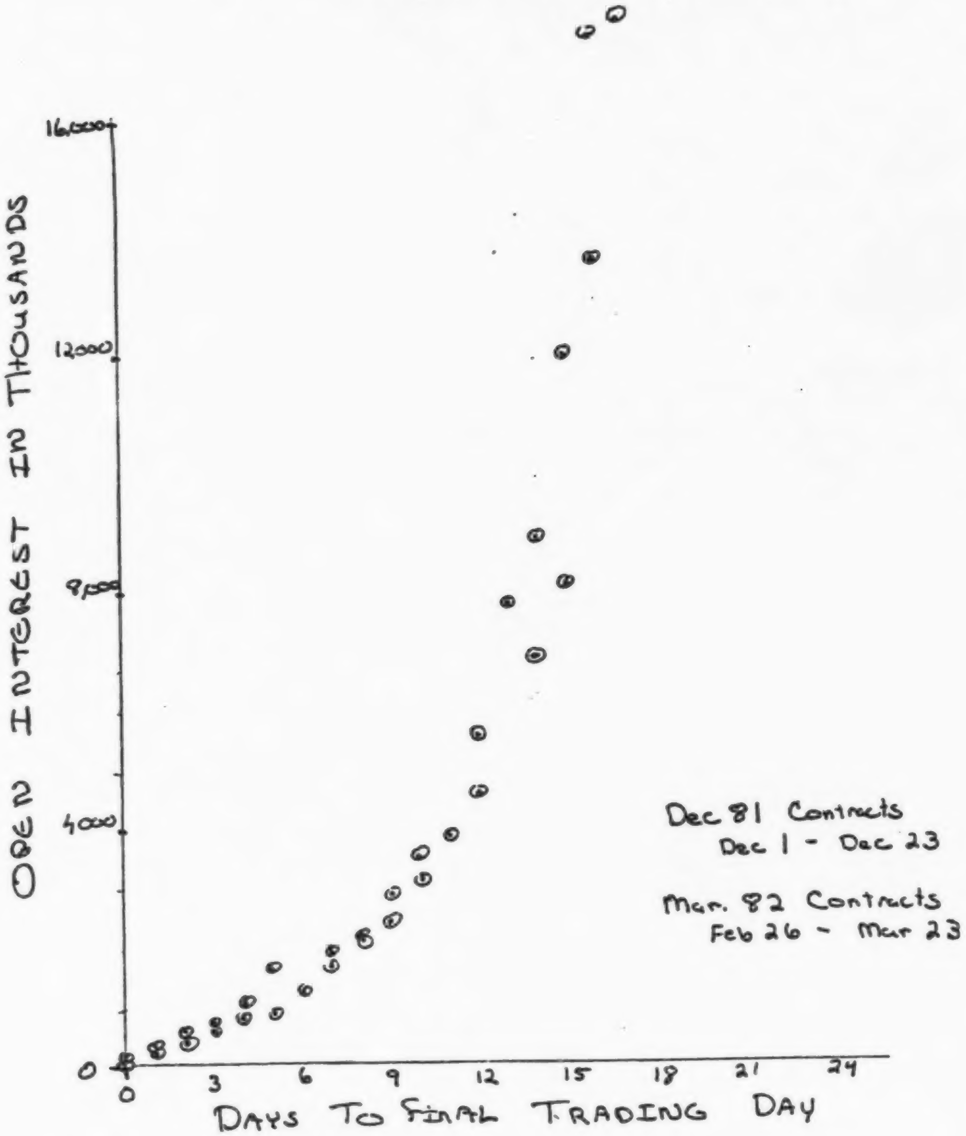


Months to Final Delivery Day

OPEN INTEREST
LIVE CATTLE IN FUTURES CONTRACTS



OPEN INTEREST IN CORN FUTURES CONTRACTS



AMENDMENT BY MR. GLICKMAN

Section 8a(9) of the Commodity Exchange Act is amended by inserting "including the fixing of position limits that may apply to a position acquired in good faith prior to the effective date of the Commission's action," immediately after "orderly trading in,".

AMENDMENT BY MR. JEFFORDS

P.39, AFTER LINE 15

C. ROLE OF STATES

"4q. The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be helpful to any department or agency of a State or political subdivision therof, the Commission shall provide such information without request.

AMENDMENT BY MR. GLICKMAN

Section 17 of the Commodity Exchange Act is amended by—

(1) inserting "expeditious" immediately before "procedure through arbitration"; and

(2) adding new subsections (p) and (q) at the end thereof as follows:

"(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than 60 days after such date of enactment and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

"(1) establish training standards and proficiency testing for the sales personnel of member firms, supervisory officials of such personnel and all individuals for which it has registration responsibilities, and a comprehensive program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation and other financial requirements applicable to its member firms, which requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation, and to implement a comprehensive program to audit and enforce compliance with such requirements; and

"(3) establish minimum standards governing the sales practices of its member firms and persons associated therewith.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than 2 years after the date of enactment of the Futures Trading Act of 1982, in the case of any futures association registered on such date and not later than 2 years after the date of registration in the case of any other futures association in the case of any other futures association registered under this section. The Commission shall submit a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry for each such association 60 days after such final date of implementation of the extent to which the association has fully implemented the program provided in the rules approved by the Commission and the effectiveness of the operation of such program.".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 31, 1982

(Sub) Committee : Conservation, Credit, and Rural Development

Meeting: Business Meeting -- a.m.

Subject: CFTC Reauthorization

Bill Nos. H.R. 5447 Committee Print

The Conservation, Credit, and Rural Development (Sub) Committee

met in open Session at 9:50 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Harkin
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Richmond
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Roberts (Ka.)
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts (S.D.)
Mr. Gunderson
Mr. Evans
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Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bernie Brenner, Press Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant
Bob Cashdollar, Subcommittee Staff Director

Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant

Witnesses:

The following represented the Commodity Futures Trading Commission and responded to questions concerning current law and the pending legislation:

1. Hon. Philip McBride Johnson, Chairman, CFTC
2. Hon. Kalo Hineman, Commissioner, CFTC
3. Ms. Andrea Corcoran, Chief Counsel, Trading and Marketing Division, CFTC

Statements Filed:

Wednesday, March 31, 1982
Conservation, Credit, and Rural
  Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Action taken:

-- By a show of hands vote of 7 yeas-8 nays Coleman substitute amendment to Glickman proposal on delegation of functions not adopted.

-- By voice vote Glickman proposal to approve language on delegation of functions adopted.

-- By voice vote Glickman motion to approve language on denial, suspension or revocation of registration provision under statutory disqualifications agreed to.

-- Panetta amendment to Fithian amendment on responsibility for associated persons of registrant adopted by voice vote, and section agreed to.

-- Glickman proposal to accept GAO proposal on fingerprinting approved by voice vote.

-- By voice vote Bedell motion to approve language on temporary licenses adopted.

-- By voice vote Glickman motion to approve CFTC language on enforcement of rules by contract markets agreed to.

(NOTE: All page references are to the Committee Print, a copy of which is attached to the March 30, 1982 a.m. minutes. Explanations of current law, CFTC, GAO and other proposals are also contained in the Committee Print.)

Chairman Jones (Tenn.) called the meeting to order to continue consideration of legislation to reauthorize the Commodity Futures Trading Commission and to amend the Commodity Exchange Act.

Counsel Bor was recognized to explain the provisions on delegation of functions. Discussion occurred on the section and Mr. Glickman moved to adopt the language recommended by the CFTC beginning on page 40, line 15, and ending on page 41, line 24, of the Committee Print. Discussion occurred.

Mr. Coleman offered as a substitute the same language except deleting lines 10 through 21 on page 41, to make the proposal permissive. Discussion continued and by a show of hands vote of 7 yeas-8 nays the Coleman amendment was not approved. The Glickman proposal was then approved by a voice vote.

Wednesday, March 31, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Counsel Bor was recognized to explain provisions on denial, suspension or revocation of registration under statutory disqualification. Discussion occurred and Mr. Glickman moved to approve the CFTC proposal contained on page 45, line 1, through page 57, line 7. By a voice vote the Glickman motion was adopted.

Counsel Bor next explained the section on responsibility for associated persons of registrant, and discussion occurred. Mr. Fithian offered the attached amendment which would require prompt notification of the Commission of registrants who have knowledge of facts regarding an associate person.

Counsel advised that the Senate had adopted the CFTC recommended language found on pages 57-58 but had added language as follows: "unless such registrant has notified the Commission of such fact and the Commission has determined that such person should be registered or temporarily licensed."

Discussion continued and Mr. Panetta moved, as a substitute to the Fithian proposal the above language as read by counsel to the proposal contained in H.R. 5447. By a voice vote the Panetta substitute amendment and section were approved.

Counsel Bor explained the section on page 58 dealing with fingerprinting. Mr. Glickman moved the adoption of the GAO proposal printed on page 58, lines 3 through 11, and by a voice vote the proposal was adopted.

The section on temporary licenses was explained by Counsel Bor. Discussion occurred and Mr. Bedell reserved the right to offer an amendment to this section at a later time, but moved the adoption of the language as printed on page 59, lines 1 through 16 of the Committee Print. By a voice vote the Bedell proposal was agreed to.

Counsel Bor explained the provision on enforcement of rules by contract markets which begins on page 59 of the Committee Print. Mr. Glickman moved the adoption of the language proposed by the CFTC contained on page 60, lines 1 through 15, and by a voice vote the motion was approved.

Counsel Bor explained the section on approval of rules of self-regulatory organizations with respect to contract markets beginning on page 61 of the Committee Print. Discussion occurred and Mr. English stated he might wish to offer the language adopted by the Senate but did not have the text available.

At 11:00 a.m. the meeting was adjourned to reconvene at 1:00 p.m. this date to enable Mr. English to prepare his proposal.

Glenda Temple

AMENDMENT OFFERED BY MR. FITHIAN

p.57, strike out line 12 through p. 58, line 2, and insert in lieu thereof the following:

"Any registrant who has knowledge of facts regarding an associated person of such registrant that are set forth as statutory disqualifications in section 8a(2) of this Act shall promptly notify the Commission of such facts, unless such facts have already been disclosed to the Commission in the associated person's application for registration."

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 31, 1982

(Sub) Committee : Conservation, Credit, and Rural Development

Meeting: Business Meeting -- p.m.

Subject: CFTC Reauthorization

Bill Nos. H.R. 5447 Committee Print

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 1:05 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Bowen
Mr. Harkin
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Richmond
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Roberts (Ka.)
Mr. Napier
Mr. Skeen
Mr. Gunderson
Mr. Evans
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Staff present:

Bob Bor, Chief Counsel
Bernie Brenner, Press Assistant
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant
Bob Cashdollar, Subcommittee Staff Director

Jim Johnston, Staff Assistant
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant
Roger Allbee, Minority Consultant

Witnesses:

The following represented the Commodity Futures Trading Commission and responded to questions concerning the legislation as well as current law:

1. Hon. Philip McBride Johnson, Chairman, CFTC

Statements Filed:

Wednesday, March 31, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Action taken:

-- Without objection Subcommittee decided to leave current law as is relative to margins.

-- Without objection English amendment on contract markets revised.

-- Without objection report language approved on contract markets, as suggested by Mr. Bedell.

-- By unanimous voice vote English amendment, as amended, on contract markets adopted.

-- Without objection Evans suggestion to Harkin proposal on speculative limits included in amendment.

-- By voice vote Harkin amendment, as revised, on speculative limits adopted.

-- By voice vote Bedell proposal concerning designation of contract markets adopted.

-- Glickman motion to approve language on registered futures associations agreed to, by voice vote.

-- By voice vote English amendment to Jeffords amendment to Coleman proposal on contract market designations agreed to.

-- By voice vote Jeffords amendment, as amended, to Coleman proposal on contract market designations adopted.

-- By voice vote Coleman proposal, as amended, dealing with contract market designations approved.

-- By voice vote Jeffords motion to adopt CFTC proposal on authorized disclosure of certain market information adopted.

-- By voice vote Bedell proposal on authorized disclosure of certain market information agreed to.

-- By voice vote Glickman motion to approve CFTC language on sharing information with states approved.

-- By voice vote Glickman motion to approve CFTC language on sharing information with contract markets and other self-regulatory organizations adopted.

Wednesday, March 31, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Action taken Con't:

-- Without objection Jones (Tenn.) motion to approve technical changes agreed to.

-- By voice vote Richmond motion to adopt CFTC proposal on restraining orders under enforcement adopted.

-- By voice vote English amendment making section on disclosure of certain information comparable to Freedom of Information Act adopted.

(NOTE: All page references are to the Committee Print which is attached to the minutes of the March 30, 1982 a.m. meeting. Committee Print includes explanations of proposals as well as current law.)

Chairman Jones (Tenn.) called the meeting to order. Counsel Bor was recognized to bring the Subcommittee up to date on the status of the markup.

Counsel explained the provisions of the section on margins on page 67 of the Committee Print. Discussion occurred and the Subcommittee decided to leave current law as is.

The Subcommittee returned to the consideration of the issue being discussed at the close of the morning meeting and continued deliberating on contract markets. Mr. English offered the attached language which had been agreed to by the Senate Subcommittee. The language changes the proposal of the Commission so as to require that the Commission has to react to proposals for changes in rules within 180 dyas and if they do not, the changes would go into effect with the qualification that the Commission could review the action and take action to disapprove if justified. Discussion occurred on the proposal.

Commissioner Johnson suggested that on the fifth line from the bottom of the English amendment that "and except those that the Commission may specify by regulation" be inserted after the word "margin". Discussion continued and Mr. English stated he had no objection to the CFTC's suggestion and asked that it be included in his proposal. There was no objection.

Mr. Bedell suggested that report language be included to reflect the intent of the Subcommittee that it does not affect the public at large. Without objection report language was approved, and by a unanimous voice vote the English proposal, as revised, was adopted.

Wednesday, March 31, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Mr. Harkin asked to return to the section on speculative limits and he offered the attached amendment to page 23 which provides for a lower speculative limit. Discussion occurred and Mr. Evans moved to amend item 3 on the Harkin amendment to read as follows: "Provided, That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits."

Mr. Harkin asked unanimous consent to include the Evans suggestion in his amendment and there was no objection. Discussion continued and by a voice vote the Harkin amendment was adopted.

Mr. Bedell stated that during the morning session an amendment was adopted which he wished to perfect concerning designation of contract markets. He distributed the attached language and discussion occurred. By a voice vote the Bedell proposal was adopted.

The section on registered futures associations was explained by Counsel. Mr. Glickman moved the adoption of the language proposed by CFTC on page 68, line 1, through page 69, line 8, of the Committee Print. By a voice vote the motion was agreed to.

Counsel Bor explained the provisions beginning on page 69 of the Committee Print dealing with contract market designations. Discussion occurred and Mr. Coleman offered the attached language which would allow the Commission one year to approve new contract applications or deny the application and specify the grounds for denial, with the running of the time period stayed during periods when the Commission informs the board of trade that its application is incomplete.

Discussion occurred and the CFTC felt the time period could be difficult since they may not have sufficient time to review applications with they are not completed in time.

Mr. Jeffords suggested the following proviso which would be inserted after the word "form" in the third line from the bottom of the Coleman proposal: "Provided, however, That the Commission shall have not less than 60 days from the time the application is resubmitted in completed form".

Discussion continued and Mr. English moved to substitute 30 days for 60 days in the Jeffords amendment. Following further discussion, by a voice vote the English amendment to the Jeffords amendment was agreed to. The Jeffords amendment, as amended, to the Coleman proposal was adopted, and the Coleman proposal, as amended, was then approved by a voice vote.

At 2:45 p.m. the meeting recessed to enable Members to respond to a series of recorded votes on the House floor. At 3:30 p.m. the Subcommittee resumed its sitting and Counsel was recognized to explain the section on page 70 dealing with disclosure of information/confidentiality (investigative information).

Wednesday, March 31, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Discussion occurred and Mr. English asked unanimous consent that staff include language that is now standard practice in the Freedom of Information Act on submitting information. Discussion continued and it was decided to pass over the issue to enable Mr. English to draft language for the Subcommittee to consider.

Counsel Bor explained the section on authorized disclosure of certain market information found on page 71 of the Committee Print. Discussion occurred and Counsel advised that the Senate had agreed to the proposal of the Commission with additional language providing that the Commission shall disclose information in its possession pursuant to a subpoena or summons only if a copy of the subpoena or summons is known to the Commission. The Subcommittee felt the proposal had merit but wished to see the exact language. Meanwhile, Mr. Jeffords moved the adoption of the CFTC proposal on this issue found on page 72, lines 1-13, and by a voice vote the Jeffords motion was adopted.

The language of the Senate proposal was made available to the Subcommittee and Mr. Bedell offered the amendment. Discussion occurred and by a voice vote the language was included in the section just approved.

Counsel explained the provisions on page 75 on sharing information with states and foreign governments and discussion occurred. Mr. Glickman moved the adoption of the proposed language of the CFTC found on page 76, line 1, through page 77, line 11, and by a voice vote the proposal was approved.

Counsel explained the provisions on sharing information with contract markets and other self-regulatory organizations found on page 78 of the Committee Print. Discussion occurred and Mr. Glickman moved the adoption of the proposal of the CFTC found on page 78, line 3, through page 79, line 6. By a voice vote the Glickman proposal was adopted.

Counsel Bor explained the technical change suggested by the CFTC and found on page 80, lines 3 through 5 of the Committee Print. Mr. Jones (Tenn.) suggested the change be approved and there was no objection.

The provisions suggested by the CFTC and the Bar of the City of New York on restraining orders under enforcement were explained by Counsel. Discussion occurred and Mr. Richmond moved to adopt the CFTC proposal found on page 80, beginning with line 6, and ending on page 81, line 7. By a voice vote the proposal was approved.

Mr. English asked to bring up the section passed over and then offered the attached language making the section applicable to the Freedom of Information Act. The amendment would substitute for the CFTC proposal found on page 71, lines 1-5. Discussion occurred and the CFTC stated they had no problem with the English proposal. By a voice vote the amendment was then adopted.

-7- Wednesday, March 31, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Counsel Bor explained the section on embezzlement found on page 81 of the Committee Print. Discussion occurred and Mr. Evans offered the attached amendment which would provide minimum penalties for those convicted of embezzlement. Discussion continued and Mr. Evans asked unanimous consent to change "person" to "individual". Discussion continued.

At 5:00 p.m. the meeting was adjourned to reconvene at 9:30 a.m. on Thursday, April 1, to enable Mr. Evans to redraft his amendment.

Glenda Temple

Glenda Temple

Beginning on page 62, strike out all after line 2 through page 64, line 15, and insert in lieu thereof the following:

(c) by amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ('rules') made or issued by such contract market, or by the governing board thereof or any committee thereof, which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin) and shall not place such rules into effect if, within ten days of receipt by the Commission of such submission, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review for approval such rules. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register a notice of such rules. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific section or sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute

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disapproval proceedings with respect to any rule within 180 days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be placed into effect by the contract market until such time as the Commission disapproves such rule in accordance with this subsection.

The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make effective a rule on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an amergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into effect immediately a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved.".

Offered by
Mr. Harkin

Amendment

SPECULATIVE LIMITS

Page 23

1. p. 23 line 10 strike all after the word "not" through the end of the sentence on line 12, and insert in lieu thereof the following:
   "be higher than the limits fixed by the Commission."

2. In line 12, strike "unlawful" and insert in lieu thereof "a violation of this Act".

3. Add the following proviso at the end of the last sentence (line 20):

   "Provided, that the provisions of Section 9(c) of this Act shall not apply to any such violation unless it is in furtherance of an attempt to manipulate, corner or squeeze the market."

AMENDMENT TO THE COMMITTEE PRINT

Offered by Mr. Bedell

Page 59, after line 16, insert the following new section (and redesignate succeeding sections and references accordingly):

DESIGNATION OF CONTRACT MARKETS

SEC. 13. Section 5(g) of the Commodity Exchange Act (7 U.S.C. 7(g)) is amended by adding at the end thereof the following: "In determining whether designation of such board of trade as a contract market for any commodity would be contrary to the public interest, the Commission shall consider, among other things, the extent to which trading in the commodity for which such designation is sought is likely to divert investment capital away from the capital formation process; to cause price manipulation; and to cause price destabilization in that commodity."

Coleman Amd

CONTRACT MARKET DESIGNATION PROCEDURES

[redacted]. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following:

> "The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial."

Bedell Amd

"(g) The Commission shall disclose information in its possession pursuant to a subpoena or summons only if--

"(1) a copy of the subpoena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpoena or summons, if the address is known to the Commission, and

"(2) fourteen days have expired from the date of mailing of the subpoena or summons.".

English

PAGE 71 - LINE 2/3

~~(2) by adding at the end thereof the following:~~

(2) THE COMMISSION

"~~(ii) Each agency~~ shall ~~also~~ promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(I) the agency shall, when requested by a submitter at the time of submission of information to the agency, notify the submitter, within five days of receipt of a request, that such a request for records containing such information has been made under ~~this section~~ THE FREEDOM OF INFORMATION ACT; and

"(II) a submitter or requester may submit to the agency written argument regarding a request made for disclosure of records.

"(iii) An agency is not required to notify a submitter of the receipt of a request under division (ii)(I) if—

"(I) the agency determines, prior to giving such notice, that the request for disclosure should be denied;

"(II) the disclosure is pursuant to law (other than this section) or agency rule which requires disclosure of specific records in such a manner as to leave no discretion on the issue; or

"(III) the information has been published or otherwise made available to the public.".

AMENDMENT TO H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Page 82, line 9, strike out "and".

Page 82, line 14, insert "and" at the end thereof..

Page 82, after line 14, insert the following:

(5) by adding at the end thereof "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied reregistration for five years or such longer period as the Commission shall determine.";

(b) by amending subsection (b) by adding at the end thereof "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine.";

(c) by amending subsection (c) by adding at the end thereof "Other provisions of this subsection notwithstanding, a person convicted under this subsection of knowingly violating the provisions of section 4(a) shall be suspended from any registration under this Act, denied registration or reregistration for a period of two years or such longer period as the

Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine.".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, March 31, 1982

(Sub) Committee: Cotton, Rice, and Sugar

Meeting: Hearing

Subject: Review of sugar provisions of the Caribbean Basin Initiative

Bill Nos. H.R. 5900

The Cotton, Rice, and Sugar (Sub) Committee

met in Open Session at 1:45 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Bowen
Mr. Coelho
Mr. Stenholm
Mr. Hatcher
Mr. Albosta
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Thomas
Mr. Stangeland
Mr. Napier
Mr. Morrison
Mr. Gunderson
Mr. Chapplie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:

Mr. Akaka
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Lowerre, Associate Counsel
Brenda Hatton, Subc. Staff Director
Linda Miller, Minority Consultant
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

1. Mr. Richard A. Smith, Administrator, Foreign Agricultural Service, U.S. Department of Agriculture
   accompanied by: Mr. Thomas A. Hammer, Deputy Undersecretary for International Affairs and Commodity Programs

2. Mr. Donald Nelson, Assistant U.S. Trade Representative for Agricultural Affairs and Commodity Policy,
   accompanied by: Mr. Irving Williamson, Attorney-Advisor, Office of General Counsel

3. Mr. Michael Calingaert, Deputy Assistant Secretary for International Resources and Food Policy, Bureau of Economic and Business Affairs, U.S. Department of State

Statements Filed:

none

Wednesday, March 31, 1982
Subcommittee on Cotton, Rice, and
Sugar
Public Hearing
To review sugar provisions of the
Caribbean Basin Initiative
H.R. 5900

Chairman Bowen called the meeting to order and made brief remarks about the Subcommittee's interest in H.R. 5900, "Caribbean Basin Initiative", which had been referred to the Committees on Ways and Means and Foreign Affairs. Mr. Thomas also made remarks.

The witnesses listed on page two summarized their prepared statements, after which they responded en bloc to questions from Members as appearing in the record.

The Subcommittee recessed at 2:45 to 3:25 p.m. to enable Members to respond to a series of votes on the House Floor.

The Subcommittee adjourned at 5:00 p.m., to reconvene subject to the call of the chair.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, April 1, 1982

(Sub) Committee : Conservation, Credit, and Rural Development

Meeting: Business -- a.m.

Subject: CFTC Reauthorization

Bill Nos. H.R. 5447 Committee Print

The Conservation, Credit, and Rural Development (Sub) Committee

met in open Session at 9:45 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. Harkin
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Richmond
Mr. Albosta
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr.
Mr.
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Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bernie Brenner, Press Assistant
Fowler West, Legislative Assistant
Glenda Temple, Staff Assistant
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Roger Allbee Minority Consultant
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant
Jim Selman, Legal Intern

Witnesses:

The following representatives of the Commodity Futures Trading Commission responded to questions on current law and proposed amendments:

1. Hon. Philip McBride Johnson, Chairman, CFTC
2. Hon. Kalo Hineman, Commissioner, CFTC
3. Hon. Susan Phillips, Commissioner, CFTC
4. Mr. Dennis Dutterer, General Counsel, CFTC

Statements Filed:

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Action taken:

-- Without objection qualifying language added to Evans amendments.

-- By voice vote Evans amendment on embezzlement, as revised, approved.

-- Without objection Evans amendment on manipulation of prices revised.

-- By voice vote Evans amendment on manipulation of prices, as revised, agreed to.

-- By voice vote Evans amendment on misdemeanors, as revised, approved.

-- By voice vote Bedell motion to approve section on penalties, as amended by Mr. Evans, agreed to.

-- Without objection Evans amendment on controlling person withdrawn.

-- By voice vote English proposal on controlling person agreed to.

-- By voice vote Glickman motion to approve CFTC language on controlling persons, as amended by English amendment, adopted.

-- By voice vote Jeffords motion to approve CFTC language on misrepresentation agreed to.

-- By voice vote Panetta motion to approve language on appellate venue approved.

-- Without objection Glickman proposal for report language dealing with administrative enforcement/double jeopardy adopted.

-- By voice vote Glickman motion to approve CFTC proposal on arbitration agreed to.

-- By voice vote Glickman motion to approve CFTC proposal on reparations adopted.

-- Without objection section on private rights of action passed over.

-- Without objection Jeffords proposal on emergency powers revised.

-- By voice vote Jeffords language on emergency powers agreed to.

-- By voice vote emergency powers section, as amended by Mr. Jeffords adopted.

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Action taken continued:

-- By voice vote Glickman proposal on leverage transactions agreed to.

-- Without objection Evans amendment to English amendment on transaction fees revised.

-- By voice vote Evans amendment, as revised, not adopted.

-- By voice vote English proposal for study on National Futures Association and transactions fees approved.

-- By voice vote Glickman proposal requiring certain actions by the NFA and study agreed to.

(NOTE: All page references on expanations, current law, and amendments are to the Committee Print which is attached to the minutes of March 30, 1982 a.m. meeting.)

Chairman Jones (Tenn.) called the meeting to order. Mr. Evans was recognized to continue discussing his amendment which was pending at the conclusion of the previous meeting. Mr. Evans substituted for his pending proposal the attached three amendments dealing with embezzlement; manipulation of prices; and misdemeanors. All of the amendments would require minimum penalties for those convicted. Discussion occurred.

Counsel read proposed qualification language, as follows: "unless the Commission determines that the imposition of such suspension or denial of reregistration is not required to protect the public interest". Mr. Evans stated he had no problem with the suggestion, and without objection the language read by Counsel was added to all three of the proposed Evans amendments. Staff was directed to modify the language, if necessary, to fit the amendments on manipulation of prices and misdemeanors. By a voice vote the Evans proposal on embezzlement, as revised, was agreed to.

Mr. Evans explained his amendment dealing with manipulation of prices and discussion occurred. Chairman Johnson of the CFTC raised a concern that barring someone from the market who has an open position would compel that person to liquidate whatever position he might have and possibly disrupt the market. He suggested that "to be barred from using or participating in any manner in any market except for liquidation operations" be added. Mr. Evans accepted the suggestion and by a voice vote the proposal, as revised, was approved.

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Mr. Evans explained his amendment dealing with misdemeanors, and by a voice vote the proposal was approved, as revised.

Mr. Bedell moved that the proposal of the CFTC as contained in H.R. 5447 found on pages 81 and 82 of the Committee Print be approved as amended by Mr. Evans. By a voice vote the motion was adopted.

Counsel Bor explained the provisions of the section on secondary responsibility; controlling persons found on page 82 of the Committee Print. Three proposals on controlling persons were distributed: the first, offered by Mr. English, contained the language that passed the Senate Committee; the second, offered by Mr. Glickman, contained the original Senate language; and the third, a similar proposal, offered by Mr. Evans.

Discussion occurred and without objection the Evans proposal was withdrawn. Discussion continued and Mr. Richmond moved to accept the language of the English amendment. By a voice vote the motion was adopted and the English proposal agreed to.

Mr. Glickman moved to adopt the language proposed by the CFTC on page 83, lines 1-8 of the Committee Print, as amended by the English proposal. By a voice vote the motion was agreed to.

Counsel Bor explained the technical amendment on misrepresentation on page 83 of the Committee Print. Mr. Jeffords moved the adoption of the language proposed by the CFTC on misrepresentation found on page 84, line 1, through page 85, line 3, of the Committee Print. By a voice vote the motion was agreed to.

The technical amendment on appellate venue on page 85 of the Committee Print was explained by Counsel Bor. Discussion occurred and Mr. Panetta moved to approve the language suggested by the CFTC and found on page 85, line 1, through page 86, line 3. By a voice vote the motion was adopted.

Mr. Bor explained the provisions dealing with administrative enforcement/double jeopardy. Discussion occurred and Mr. Glickman asked unanimous consent that an amendment not be approved but that report language be included to the effect that in determining whether to bring enforcement action against the person, the Commission should consider previous disciplinary actions by a contract market or a registered futures association which was based on the same conduct. Without objection the motion was agreed to and report language approved.

The section on arbitration was explained by Counsel. Mr. Glickman moved to approve the language of the CFTC on page 88, line 9, through page 89, line 25. By a voice vote the language was approved.

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Counsel Bor explained the section on reparations found on page 91 of the Committee Print. Discussion occurred and Mr. Glickman moved to adopt the reparations proposal of the CFTC found on page 92, line 1, through page 95, line 2, and by a voice vote the motion carried.

Mr. Glickman asked unanimous consent to pass over the section on private rights of action until an amendment he wished to offer was prepared. There was no objection.

Counsel Bor explained the provisions of the section on emergency powers. Mr. Jeffords offered the attached amendment permitting limited judicial review. Discussion occurred and Counsel suggested that a reference to the speculative limits proposal, previously adopted, be noted so that this proposal would not interfere with the previous action of the Subcommittee. Mr. Jeffords had no objection to revising his amendment. By a voice vote, the Jeffords proposal, as revised, was adopted.

Mr. Jeffords then moved the adoption of the section on emergency powers on page 101, lines 1-13, as amended by his proposal, and by a voice vote the motion carried.

Counsel Bor explained the provisions of the section dealing with leverage transactions beginning on page 101 of the Committee Print. Discussion occurred and Mr. Glickman offered the attached proposal on leverage transactions. Discussion continued and by a voice vote the Glickman proposal was adopted.

Counsel Bor explained the provisions of the user fee section beginning on page 104 of the Committee Print. Mr. English offered the attached proposal providing for a study of the National Futures Association and transaction fees. Discussion occurred.

Mr. Evans offered the attached amendment which would provide user fees. Discussion continued. Mr. Evans asked unanimous consent to strike all of paragraph (2) of his amendment and insert a new paragraph (2), as follows:

"(2) by striking lines 17 through 21;".

Without objection the Evans amendment was revised. By a voice vote the Evans amendment, as revised, to the English proposal was not adopted. The English proposal on the study was then adopted by a voice vote.

Mr. Glickman offered the attached amendment which would require certain actions by the NFA as well as provide for a study that goes along with the English proposal just adopted. Discussion occurred and staff was directed to make the report dates contained in both the English and Glickman proposals the same. By a voice vote the Glickman proposal was then adopted.

Thursday, April 1, 1982
Conservation, Credit, and Rural
  Development Subcommittee
Business Meeting -- a.m.
CFTC Reauthorization
H.R. 5447 Committee Print

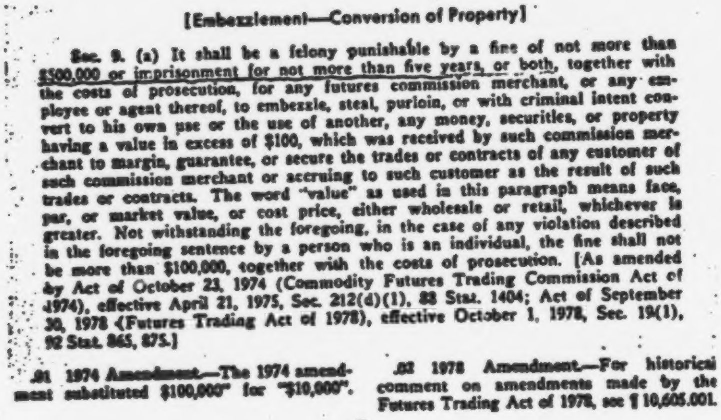
At 12:15 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to consider additional amendments to the Commodity Exchange Act. Chairman Jones (Tenn.) asked that members try to conclude action on the measure today.

Glenda Temple
Glenda Temple

AMENDMENT TO COMMITTEE PRINT H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Current Law



[Embezzlement—Conversion of Property]

Sec. 9. (a) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any futures commission merchant, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such commission merchant to margin, guarantee, or secure the trades or contracts of any customer of such commission merchant or accruing to such customer as the result of such trades or contracts. The word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. Not withstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. [As amended by Act of October 23, 1974 (Commodity Futures Trading Commission Act of 1974), effective April 21, 1975, Sec. 212(d)(1), 88 Stat. 1404; Act of September 30, 1978 (Futures Trading Act of 1978), effective October 1, 1978, Sec. 19(1), 92 Stat. 865, 875.]

.01 1974 Amendment.—The 1974 amendment substituted $100,000" for "$10,000".

.02 1978 Amendment.—For historical comment on amendments made by the Futures Trading Act of 1978, see ¶ 10,605.001.

Proposed Amendment

Page 82, line 9, strike out "and".

Page 82, line 14, insert "and" at the end thereof..

Page 82, after line 14, insert the following:

(5) by adding at the end thereof "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied reregistration for five years or such longer period as the Commission shall determine.";

AMENDMENT TO COMMITTEE PRINT H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Current Law

[¶ 1342] *[Manipulation of Prices]*

(b) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity, or knowingly to deliver or cause to be delivered for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce or knowingly to violate the provisions of section 4, section 4b, section 4c(b) through section 4c(e), section 4h, section 4o(1), or section 19 of this Act, or knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or knowingly to omit in any application or report any material fact that is required to be stated therein. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. [As amended by Act of October 23, 1974 (Commodity Futures Trading Commission Act of 1974), effective April 21, 1975, Sec. 212(d)(2), 88 Stat. 1404; Act of September 30, 1978 (Futures Trading Act of 1978), effective October 1, 1978, Sec. 19(2), 92 Stat. 865, 875.]

.01 1974 Amendment.—The 1974 amendment substituted "$100,000" for "$10,000".

.02 1978 Amendment.—For historical comment on amendments made by the Futures Trading Act of 1978, see ¶ 10,310.001.

PROPOSED AMENDMENT

Page 82, line 9, strike out "and".

Page 82, line 14, insert "and" at the end thereof..

Page 82, after line 14, insert the following:

(b) by amending subsection (b) by adding at the end thereof "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine.";

·AMENDMENT TO COMMITTEE PRINT H.R. 5447
OFFERED BY MR. EVANS OF IOWA

Current Law

[¶ 1343] *[Misdemeanors—Fines]*

(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4c(a), section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 6b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required. [As amended by Act of October 23, 1974 (Commodity Futures Trading Commission Act of 1974), effective April 21, 1975, Secs. 212(d)(3), 409, 88 Stat. 1404, 1414; Act of September 30, 1978 (Futures Trading Act of 1978), effective October 1, 1978, Sec. 19(3), 92 Stat. 865, 875.]

.01 1974 Amendments.—The 1974 amendments substituted "$100,000" for "$10,000" in Sec. 9(c) and inserted after "section 4i" the following: "section 4k, section 4m, section 4o".

.02 1978 Amendment.—For historical comment on amendments made by the Futures Trading Act of 1978, see ¶ 10,330.001.

PROPOSED AMENDMENT

Page 82, line 9, strike out "and".

Page 82, line 14, insert "and" at the end thereof..

Page 82, after line 14, insert the following:

(c) by amending subsection (c) by adding at the end thereof "Other provisions of this subsection notwithstanding, a person convicted under this subsection of knowingly violating the provisions of section 4(a) shall be suspended from any registration under this Act, denied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine.".

"(b) Any person who, directly or indirectly, controls any person liable under any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person; Provided, that the Commission has the burden of proving that the controlling person did not act in good faith and did not directly or indirectly induce the act or acts constituting the violation."

Although the language may slightly differ, this is what the Senate Agriculture Committee passed yesterday. We recommend its adoption.

AMENDMENT BY MR. GLICKMAN — CONTROLLING PERSON

Section 13 of the Commodity Exchange Act is amended by adding a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person liable under any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation."

AMENDMENT TO COMMITTEE PRINT H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Page 83, Strike lines 9 though 15 and insert the following new section (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person liable under any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in an action brought by the Commission to the same extent as such controlled person:

Provided, That the burden of proof shall be on the Commission to show that the controlling person had prior knowledge of or materially induced the violation, or did not act in good faith."

Jeffords

Explanation of Amendment

The amendment revises the Commodity Exchange Act to permit limited judicial review of actions taken by the Commission with respect to a market emergency. Review is confined to the Court of Appeals in order to avoid unwarranted judicial interference in agency exercises of emergency powers; such direct review in the Court of Appeals is a procedure commonly used in the various statutes establishing executive agency authority. To ensure that the agency will not be unduly hindered in its exercise of emergency powers, the amendment further provides that no stay, mandamus or similar order may be entered by the Court of Appeals to defeat the effectiveness of the Commission's order without considering the arguments of all parties to the dispute, examining the record before the agency at the time agency action was taken, and entering the findings required by the amendment. Any such action may be taken only by a panel of the Court of Appeals, rather than by a single member of that Court.

"(9) (The Commission is authorized) to direct the contract market whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in, or liquidation of, including the setting of temporary emergency margin levels on, any futures contract. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this clause shall be subject to review only in the Circuit Court of Appeals for the district in which the party seeking review resides, or in the Circuit Court of Appeals for the District of Columbia. Such review shall be based upon an examination of all of the information before the Commission at the time the determination was made. The court reviewing agency action shall enter no stay of the Commission's order or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions."

Amendment by Mr. Glickman

LEVERAGE TRANSACTIONS

Page 102, lines 1-18, and page 103, lines 1-13, are amended by striking out the existing language and inserting in lieu thereof the following:

"Sec. 24. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by --

(1) amending subsection (c) to read as follows --

> '(c) The Commission shall [may prohibit or] regulate any transactions [,] under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities under such terms and conditions as the Commission shall [initially] prescribe by January 31,1983 [October 1, 1979]: Provided, That any such order, rule, or regulation may be made only after notice and opportunity for hearing; Provided further, That the Commission may set different terms and conditions for such transactions involving different commodities.'; and

(2) striking out subsection (d)."

Explanation of Purpose

The amendment deletes the new subsection 19(e) proposed by the CPTC which would (1) ratify the regulatory moratoriums imposed on the leverage industry four years ago and statutorily extend them for an additional two years, (2) suspend for two years the existing requirement to regulate, pending completion of yet another study of leverage transactions and (3) require a report to Congress on the results of the study. The Commission conducted a study of the leverage industry in 1975-76 and issued a detailed report recommending the promulgation of comprehensive regulations. Moreover, both in 1974 and again in 1978, Congress made clear its intent that the CFTC regulate leverage transactions. The Commission has not done so, and the proposed study will mean only further delay.

The amendment requires the Commission to adopt a regulatory scheme to govern leverage transactions within 120 days of the effective date of this Act.

The amendment also deletes existing subsection 19(d) which has been misconstrued by the CFTC as authority to prohibit all leverage transactions in lieu of regulating them.

English

NATIONAL FUTURES ASSOCIATION STUDY AND TRANSACTION FEES

Sec. __ Section 26 of Public Law 95-405 is hereby amended--

"(a) by redesignating existing Section 26 as '26.(a)' and;

"(b) by adding, following Section 26.(a) (as amended), the following new subsections:

'(b) The Commodity Futures Trading Commission shall submit to Congress the results of a study of the first two years of regulatory experience of the National Futures Association. The period to be encompassed by such study will begin January 1, 1983 and expire December 31, 1984. Study results shall include (but not be limited to) the following: (1) the actual and projected cost savings to the Federal government, if any, resulting from operations of the National Futures Association; (2) the actual and projected costs which the Commission and the public should have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction; (3) problem areas, if any, encountered by the Association; (4) the nature of the working relationship between the Association and the Commission; (5) an assessment of the actual and projected efficiencies the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and (6) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

'(c) Notwithstanding any provision of this Act or other law, no user fee, user tax, transaction tax or transaction fee on or involving a contract for the purchase or sale of a commodity for future delivery, commodity option traded on a contract market, other option pursuant to 4c(d) of this Act, or leverage contract pursuant to Section 19 of this Act, shall be recommended pursuant to this Section or implemented pursuant to any law until such time as the Commission has submitted to Congress the study described in subsection (b) and one session of Congress shall have passed following the date such study is presented to Congress. Provided, that should the Commission recommend at any time the imposition of a user fee, user tax, transaction fee, or transaction tax, such recommendation at a minimum shall be accompanied by data and studies measuring the relative benefit to commodity professionals as well as to the general public of the functions of the nation's commodity markets and of federal commodity regulation, and the effect of the proposed fee or tax on U.S. contract market liquidity.

'(d) Nothing in this section shall limit the ability of the Commission to continue to charge appropriate fees for services currently rendered by the Commission in conjunction with its registration, reparations, adjudication, or informational services and activities.'"

EXPLANATION

The provision would direct the CFTC to conduct a study of the first two year's experience of the National Futures Association and report the results of such study to Congress. During the period of the study and for one Session of Congress following, no user fees would be recommended by the CFTC pursuant to Section 26 of Public Law 95-405 (the 1978 Reauthorization law) or implemented pursuant to any law (including the Commodity Exchange Act). Existing administrative fees currently being charged by the CFTC for registration activities of the Commission and other administrative services would not be affected by the amendment.

AMENDMENT TO COMMITTEE PRINT H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Amend page 105 as follows:

1. Line 12, by striking the number "12" and insert in lieu thereof the number "25".
2. Line 15, by inserting after the word "association" the words "Provided, That the 6 cent transaction fee authorized by this subsection shall not be imposed except by order of the Commission, and the fee shall be imposed only when in the judgement of the Commission, a futures association as authorized by section 17 of this Act is not adequately performing the regulatory functions set forth for such futures associations in section 17, and the fee shall be imposed only on those persons represented by the offending futures association.".

AMENDMENT BY MR. GLICKMAN

Section 17 of the Commodity Exchange Act is amended by --

(1) inserting in subsection (b)(10) "expeditious" immediately before "procedure through arbitration"; and

(2) adding new subsections (p) and (q) at the end thereof as follows:

"(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than 90 days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to --

"(1) establish training standards and proficiency testing for personnel of members involved in the solicitation of transactions subject to the provisions of this Act, supervisory officials of such personnel, and all individuals for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements. Such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

"(3) establish minimum standards governing the sales practices of its members and persons associated therewith as to transactions subject to the provisions of this Act.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than two years after the date of enactment of the Futures Trading Act of 1982, in the case of any futures association registered on such date, and not later than two years after the date of registration in the case of any other futures association registered under this section. The Commission shall submit a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry for each such association 90 days after such final date of implementation of the extent to which the association has fully implemented the program provided in the rules approved by the Commission and the effectiveness of the operation of such program.".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, April 1, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Business -- p.m.

Subject: CFTC Reauthorization

Bill Nos. H.R. 5447 Committee Print

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 2:05 o'clock, in Room 1302

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Daschle
Mr. Dorgan
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Richmond
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Skeen
Mr. Roberts (S.Dak.)
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
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Mr.

Mr.
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Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
Bob Lowerre, Associate Counsel
John Hogan, Minority Counsel
Glenda Temple, Staff Assistant
Fowler West, Legislative Assistant
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Dave Ebersole, Staff Assistant
Jim Selman, Legal Intern

Witnesses:

The following represented the Commodity Futures Trading Commission and responded to questions concerning current law and proposed amendments:

1. Hon. Philip McBride Johnson, Chairman, CFTC

Statements Filed:

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Action taken:

-- Without objection Coleman motion to change time period for review of applications approved.

-- By voice vote Glickman proposal on private rights of action agreed to.

-- By voice vote Jeffords motion to approve CFTC proposal on revolving door adopted.

-- By voice vote Bedell motion to approve CFTC proposal on inside trading agreed to.

-- Without objection Bedell suggestion to take no action on section on efficiency and economy, limitation on commission functions, and reports to Congress approved.

-- Without objection Bedell motion to take no action on section on preemption of state and local taxes approved.

-- Without objection Bedell motion to take no action on provisions on dealer options approved.

-- Without objection Jeffords motion to take no action on the export sales reporting section approved.

-- Without objection Jeffords motion to take no action on language of H.R. 5956 approved.

-- Without objection Jeffords motion to take no action on language of H.R. 5917 approved.

-- By voice vote Glickman proposal providing for a special study of the Commodity Futures Industry adopted.

-- By voice vote Bedell proposal on pilot program on stock index futures contracts adopted.

-- Without objection Richmond proposal calling for coordination between CFTC and SEC withdrawn and report language included in lieu thereof.

-- By voice vote Evans proposal on hedging agreed to.

-- Without objection Evans proposal on contracts of live animals withdrawn.

-- By voice vote Jeffords motion to report H.R. 5447, as amended, to the full Committee approved in the presence of a quorum.

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

(NOTE: All page references on explanations, amendments, etc. are to the Committee Print attached to the minutes of March 30, 1982 a.m. meeting.)

Chairman Jones (Tenn.) called the meeting to order and Counsel brought the Subcommittee up to date on the status of the markup.

Mr. Coleman asked unanimous consent to reconsider the English amendment (see minutes of March 31, 1982 p.m.) to the Coleman proposal providing for a 30-day time period for review of applications by the Commission. Chairman Johnson explained the need to extend the time in order to provide the Commission with time for public notice of the hearing and final consideration by the Commission. Mr. Coleman asked that the time be extended to 60 days and without objection the motion was agreed to.

Mr. Glickman offered the attached amendment on private rights of action, which had been passed over previously. The language would appear on page 99 of the Committee Print. Mr. Jeffords distributed the attached language which he was prepared to offer. Discussion occurred on the proposals and Mr. Jeffords stated he would accept the Glickman proposal but reserved the right to offer clarifying amendments in the full Committee to perfect the provision. By a voice vote the Glickman proposal was adopted.

Counsel Bor explained the provisions of the revolving door section. Discussion occurred and Mr. Jeffords moved to adopt the CFTC proposal which appears on page 109, lines 1-6 of the Committee Print. By a voice vote the proposal was agreed to.

Counsel Bor explained the provisions of the inside trading proposal on page 109 of the Committee Print. Mr. Bedell moved to adopt the proposed language of the CFTC found on page 110, line 1, through page 112, line 3. By a voice vote the motion was adopted and the language included in the bill.

The section on efficiency and economy; limitation on Commission functions; reports to Congress was explained by Counsel. Mr. Bedell moved that the Subcommittee take no action and without objection the motion was approved. Thus, the industry/NFA proposal was not included in the legislation.

Counsel explained the section on preemption of State and local taxes found on page 114 of the Committee Print. Discussion occurred and Mr. Bedell moved that the Subcommittee take no action on the proposal. Without objection the motion was approved and the industry/NFA proposal was not included in the legislation.

Thursday, April 1, 1982
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting -- p.m.
CFTC Reauthorization
H.R. 5447 Committee Print

Counsel Bor explained the provision on dealer options beginning on page 115 of the Committee Print. CFTC representatives expressed their objection to the proposal and Mr. Bedell moved that the Subcommittee go to the next section and take no action on the proposal. Without objection the motion was adopted and the proposal of Dowdex Corp. was not included in the legislation.

Counsel Bor explained the provisions of the export sales reporting section beginning on page 118 of the Committee Print. Discussion occurred and Mr. Jeffords moved to pass over the proposal and suggested that if Mr. Smith of Iowa, the author of the proposal, found someone to offer it, the matter could be considered in the full Committee. Without objection the suggestion of Mr. Jeffords was accepted and the proposal was passed over.

The provisions of H.R. 5956, a bill by Mr. Smith (Iowa), which would require public disclosure of certain information relating to sales of commodities for export, was explained by the Counsel. Mr. Jeffords suggested the same procedure--that the matter be passed over and if someone wishes to offer it as an amendment in the full Committee, it could be considered at that time. There was no objection and H.R. 5956 was passed over.

Counsel explained the provisions of H.R. 5917 by Mr. Smith of Iowa. The bill would require a producer referendum as a condition of designation of certain contract markets. Mr. Jeffords suggested that the Subcommittee pass over the matter and if Mr. Smith found someone to offer it, the measure could be considered during full Committee deliberations. Without objection H.R. 5917 was passed over.

Mr. Glickman offered the attached proposal providing for a special study of the Commodity Futures Industry. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Bedell offered the attached proposal calling for a pilot program on stock index futures contracts. Discussion occurred. Chairman Johnson of the CFTC suggested that the proposal could be handled in the previously adopted Glickman proposal. Mr. Bedell stated he had no objection to including it in the Glickman amendment and by a voice vote the Bedell proposal was adopted.

Mr. Bedell stated he did not have an amendment to offer, but he wanted the Subcommittee to authorize the Commission not to act on any new stock index future so long as Congressional action had not been taken. Discussion occurred and Mr. Bedell asked that the Commission not take any action until reporting of the bill by the full Committee. Discussion continued and it was decided that Mr. Bedell could write such a letter to the CFTC requesting deferral of action and any member of the Subcommittee who wished to cosign the letter could do so.

Thursday, April 1, 1982
Conservation, Credit, and Rural
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H.R. 5447 Committee Print

Mr. Richmond offered the attached proposal calling for coordination between the CFTC and SEC. Discussion occurred and without objection Mr. Richmond withdrew the proposal for statutory language and to include the language in the Committee report.

Mr. Evans offered the attached proposal on hedging which would be inserted on page 22 of the Committee Print. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Evans offered the attached amendment on contracts for live animals and discussion occurred. Without objection the proposal was withdrawn with the assurance that the CFTC would report on such markets.

Mr. Jeffords moved that the Subcommittee report the bill, as amended, to the full Committee with the recommendation that it do pass. By a voice vote and in the presence of a quorum, H.R. 5447, as amended, was ordered reported to the full Committee.

Staff was given permission to make such technical changes as necessary to conform the bill to the Subcommittee's intent.

Mr. Evans asked that the CFTC submit to the Subcommittee the budgetary impact of all the provisions that were included in the measure as reported prior to full Committee consideration.

At 3:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

Glickman

PRIVATE ACTIONS

A new section 20 shall be added to the Commodity Exchange Act to read as follows:

Sec. 20. (a) Any person (other than a contract market) who has violated this Act shall be liable for actual damages caused by such violation to any other person:

(1) who received trading advice from such person for a fee;

(2) in or in connection with any order to make, or the making of any contract of sale of any commodity for future delivery (or option on any such contract or any commodity) made or to be made, on or subject to the rules of any contract market or other board of trade for or on behalf of such other person;

(3) who purchased or sold or placed an order for the purchase or sale of:

  (A) an option subject to section 4c(d) of this Act;

  (B) an option subject to section 4c(b) of this Act (other than an option purchased or sold on a contract market or other board of trade);

  (C) a contract subject to section 19 of this Act;

  (D) an interest or participation in a commodity pool; or

(4) who purchased or sold a contract referred to in paragraph (2) hereof if the violation is alleged to be a manipulation of the price of any such contract or the price of the commodity underlying such contract.

(b) The United States district courts shall have exclusive jurisdiction of actions brought under this section: Provided, however, That nothing in this section shall limit or abridge the rights of the parties to agree in advance of a dispute upon the forum for resolving claims under this section, including arbitration.

(c) The rights of action authorized by this section and by section 14 of this Act shall be the exclusive remedies under this Act available to any person that sustains loss as a result of any alleged violation of this Act.

(d) No action shall be maintained under this section unless brought within two years after the date of the cause of action accrues.

A new section 21 shall be added to the Commodity Exchange Act to read as follows:

Sec. 21. (a) A contract market which has failed to enforce any bylaw, rule, regulation or resolution that was made a condition of its designation under section 5 of this Act or in enforcing any such bylaw, rule, regulation or resolution violated this Act, or any Commission rule, regulation or order, shall be liable for actual damages sustained by a person which engaged in transactions on such contract market to the extent of such person's actual losses resulting from such transactions caused by such failure to enforce or enforcement of such bylaws, rules, regulations or resolutions.

(b) A registered futures association which has failed to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violated this Act or any Commission rule, regulation or order shall be liable for actual damages sustained by a person which engaged in transactions specified in section 20(a) of this Act to the extent of such person's actual losses resulting from such transactions caused by such failure to enforce or enforcement of such bylaw or rule.

(c) Any individual who, in his capacity as an officer, director, governor, committee member or employee of a contract market or a registered futures association, willfully aids, abets, counsels, commands, induces or procures any failure by such contract market or registered futures association to enforce, or any violation of the Act in enforcing, any bylaw, rule, regulation or resolution as referred to in paragraph (a) or (b), shall be liable for actual damages sustained by a person which engaged in transactions on such contract market or, in the case of an officer, director, governor, committee member or employee of a registered futures association, transactions specified in section 20(a) of this Act, in either case to the extent of such person's actual losses resulting from such transactions caused by such failure or violation.

(d) A person seeking to enforce liability under this section must establish that the contract market, registered futures association, officer, director or employee acted in bad faith in failing to take action or in taking such action as he or it did take, and that such failure or action caused the loss.

(e) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.

(f) The rights of action authorized by this section shall be the exclusive remedy under this Act available to any person which sustains a loss as a result of the alleged failure by a contract market or affiliated clearing organization or registered futures association or by any officer, director, governor, committee member or employee to enforce a contract market's or registered futures association's bylaws, rules, regulations, or resolutions or action which is alleged to have violated this Act, or any Commission rule, regulation or order.

Sec. 22. The provisions of sections 20 and 21 shall become effective with respect to causes of action accruing on or after the date of enactment of this section, provided that the enactment of this section or sections 20 and 21 will not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.

Jeffords

PRIVATE RIGHTS OF ACTION

ADD a new section 20 to the Commodity Exchange Act, as follows:

Sec. 20. (a) Within two years after the cause of action accrues, any person may institute an action for actual damages in the United States District Court for the district in which such person resides, or where the defendant resides, conducts business or is found, for injury incurred in any transactions or dealings subject to this Act and arising out of a violation thereof, except as provided in subsection (b).

(b) No action under subsection (a) shall be maintainable against a contract market (including the clearing organization thereof), licensed board of trade, or registered futures association, or against any governor, director, officer, employee or agent thereof acting in that capacity, for any act or omission in the performance of self-regulatory duties under sections 5, 5a or 17 of this Act unless such acts or omissions result from self-dealing or are intended to assist or further a violation of this Act by another person: Provided, however, nothing herein shall proscribe or inhibit in any way the authority of the Commission to institute proceedings or to take any other action authorized by this Act against a contract market (or the clearing organization thereof), licensed board of trade, or registered futures association, or against any governor, director, officer, employee or agent thereof acting in that capacity, for any violation of this Act.

AMENDMENT BY MR. GLICKMAN SPECIAL STUDY OF THE COMMODITY FUTURES INDUSTRY

"Section 18 of the Commodity Exchange Act is amended by adding a new section at the end as follows:

The Commission shall organize and lead, with the assistance of the Securities and Exchange Commission, the Federal Reserve, and the Department of the Treasury, a study and investigation of the structure, participation, uses and effects of trading of futures and related instruments, such as options, on the economy. Among those areas to be studied are (i) the number, types, and characteristics of futures market speculators, arbitrageurs, and hedgers, the purposes for which these participants utilize futures markets, and the financial resources devoted to each of these activities; (ii) the impact of futures market speculation on the accuracy, liquidity, and stability of cash and futures prices and the conditions under which speculation may have adverse effects on these objectives, particularly with respect to the increased volume of financial futures and other non-traditional futures; (iii) the consequences that present and anticipated volumes of trading in futures have, if any, on formation of real capital in the economy, particularly that of a long-term nature, the structure of liquidity in credit markets, interest rates ~~or~~ and inflation; and (iv) the sufficiency of the public policy tools available to the CFTC or other agencies to limit or curtail any activity which is found likely to have a harmful effect on national economic goals. The report of this study will be transmitted to Congress on or before September 30, 1984 and shall include an assessment of the impact of these activities and recommendations for legislative and regulatory changes. There ~~be~~ are authorized such funds as may be necessary to carry out the study.

AMENDMENT TO THE COMMITTEE PRINT

Offered by Mr. Bedell

The Commodity Exchange Act is amended by adding a new section as follows:

Section _____. For a period of two years following the effective date of this section, all stock index futures contracts approved by the Commission either prior or subsequent to such effective date shall be subject to a pilot program for such contracts, to be established by the Commission by rule, regulation or order. Such pilot program shall, at a minimum, include close monitoring by the Commission of the contracts, including the assessment of the impact if any of such contracts on the markets in the underlying securities and the effect if any of the contracts on the capital formation process. Within 120 days following the expiration of the pilot program, the Commission shall report to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition and Forestry of the United States Senate its findings and conclusions with respect to the economic purposes being served by the contracts and any effect of such contracts on underlying markets in securities or capital formation.

If such report concludes that the adverse effects on the underlying markets in securities or capital formation resulting from trading in the stock index futures contracts outweigh any benefits provided by the contracts' hedging or risk-management function, the Commission shall include in the report its plans for the orderly withdrawal of approval for all stock index futures contracts.

Richmond

Section 2(a)(8)(B) of the Act shall be amended by redesignating subparagraph (iii) as (iv) and adding a new subparagraph (iii) as follows:

> The Commission and the Securities and Exchange Commission shall coordinate their respective regulation of commodity trading advisors and investment advisers and of commodity pools and investment companies so as to minimize duplicative regulation of such entities. Where joint regulation of such entities is necessary, the Commission and the Securities and Exchange Commission shall avoid the adoption of conflicting rules and procedures and unnecessary overlapping rules and procedures.

AMENDMENT TO COMMITTEE PRINT H.R. 5447

OFFERED BY MR. EVANS OF IOWA

CURRENT LAW

(1 10431) **Hedging Transactions Exception**

(3) No order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission within one hundred eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purpose of this Act: Provided, that such terms shall permit the hedging of a person's anticipated production of seed quantities of a commodity and the hedging by the users of products of traded commodities as well as users of the commodities. (As amended by Act of October 23, 1974 (Commodity Futures Trading Commission Act of 1974), effective April 21, 1975, Sec. 404 88 Stat. 1413; as amended April 16, 1975, Sec. 4 P.L. 94-16, 89 Stat. 77.)

PROPOSED AMENDMENT

Page 22, by striking lines 9 through 12 and inserting in lieu thereof the following:

"(d) by amending subparagraph (3) to read as follows:

"(3) no order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by order consistent with the purposes of this Act: Provided, That such terms shall permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exhange. For the purpose of determining the adequacy of this Act and the powers of the Commission acting thereunder to diminish, eliminate or prevent unwarranted price pressures by very large hedgers operating under this subsection, the Commission shall monitor the trading activities of large hedgers selected by the Commission and shall report its findings and recommendations to the Agriculture Nutrition, and Forestry Committee of the Senate and the Agriculture Committee of the House in its annual report for each of the 4 years following enactment of the Act"."

AMENDMENT TO COMMITTEE PRINT H.R. 5447

OFFERED BY MR. EVANS OF IOWA

Page 115, after line 17, insert the following new section:

CONTRACTS FOR LIVE ANIMALS

Sec. 26. Section 5a(10) of the Commodity Exchange Act (7 U.S.C. 7a(10)) is amended by adding at the end of the first sentence the following:

":Provided, That the provisions for delivery of live animals for slaughter shall discourage the sequential delivery of a single contract lot of such animals to settle more than one contract within a futures market, and shall attempt to minimize the need to move animals long distances to point of slaughter subsequent to delivery.".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 3, 1982

(Sub) Committee: Tobacco and Peanuts

Meeting: Public Field Hearing

Subject: To review the price support program for burley tobacco

Bill Nos. --

The Tobacco and Peanuts (Sub) Committee

met in Open Session at 9:00 a.m. o'clock, in Room Mason County High School Field House, Maysville, Kentucky

The following Members were present:

	Also Present:	
Mr. Rose	Mr. Perkins	Mr.
Mr.	~~Mr.~~ Sen. Wendell Ford	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Joan Teague, Subcommittee Staff Consultant

Witnesses:

1. James A. Finch, President, Burley Auction Warehouse Association, Box 100, Maysville, Ky. 41055
2. Joe McDaniel, President, Burley Tobacco Growers Association, Route 6, Cynthiana, Ky. 41031
3. Charles E. Allison, Jr., Farm Bureau President, Route 2, Mays Lick, Ky. 41055
4. Ernest B. Hillenmeyer, President, Parker Tobacco Company, Box 428, Maysville, Ky. 41056
5. Buddy Cropper, Tobacco Farmer representing Farm Bureau, Route 2, Mays Lick, Ky. 41044
6. Donald E. Johnson, Agribusiness Representative, Post Office Box 156, Tollesboro, Ky. 41189
7. W. B. "Bert" Collins, Farm Department, Bank of Maysville, 20 West Third Maysville, Ky. 41056
8. Darrell Scott, Farmer, Route 1, Box 309, Maysville, Ky. 41056
9. James D. Wells, Tobacco Program Coordinator, Ohio Farm Bureau, 7928 Hartman Road, Ripley, Ohio 45167
10. William M. Stewart, Route 5, Box 138, Maysville, Ky. 41056
11. Glen R. McCormack, Tobacco Farmer, Route 1, Box 422, Flemingsberg, Ky. 41041
12. Harold D. Applegate, Farmer and Grain Dealer, Box 191, Tollesboro, Ky. 41189
13. Davis Roberson, Farmer, Route 2, Box 333, Mays Lick, Ky. 41055
14. Julian E. Gillespie, Farmer, Route 1, Box 55, Tollesboro, Ky. 41189
15. Matt Dykes, Tobacco Warehouseman and Farmer, Route 2, Box 2[illegible], Winchester, Ky. 40391

Statements Filed:

Saturday, April 3, 1982
Tobacco and Peanuts Subcommittee
Public Field Hearing, Maysville, Ky.
To review the price support program
for burley tobacco

Witnesses (continued)

16. Herbert C. Bradford, Farmer, Vanceburg, Ky. 41179

17. Kenneth E. White, Route 7, Vanceburg, Ky. 41179

18. Pete Worthington, State Representative, Farmer, Kentucky State Legislature, Route 1, Ewing, Ky. 41039

19. Ivan L. Debard, Route 5, Box 724, Morehead, Ky. 40531

20. Charles W. Ralph, Box 76, Ewing, Ky. 41039

21. Lucian T. Robinson, Route 2, Mt. Olivet, Ky. 41064

22. Arthur Maze, Owingsville, Ky. 40360

23. Richard M. Wilson, 310 Broadway Street, Maysville, Ky. 41055

24. Don Miles, 2135 Georgian Way, Lexington, Ky. 40504

25. Robert F. Hardin, Route 1, Box 67, Mt. Olivet, Ky. 41064

26. Willie A. Skaggs, Route 2, Box 14, Greenup, Ky. 41144

27. Harold S. Robertson, Sharpsburg, Ky. 40374

[illegible]

Saturday, April 3, 1982
Tobacco and Peanuts Subcommittee
Public Field Hearing, Maysville, Ky.
To review the price support program
for burley tobacco

Mr. Rose, Chairman of the Subcommittee, called the meeting to order at 9:40 a.m., and remarked that the hearing will continue a series of public hearings which included previous sessions at Fairmont, Raleigh, Clinton, Kinston and Winston-Salem, N.C.; Florence, S.C.; Moultrie, Ga.; Abingdon, Va.; and Lexington, Ky. Mr. Rose added that the Subcommittee members had learned a great deal in the previous hearings and that they were anxious to hear the ideas and suggestions of farmers in and around Maysville concerning the operations of the price support program for burley tobacco.

Testimony was heard from the 27 witnesses listed above, and Mr. Rose questioned each one. The Chairman adjourned the meeting at 1:30 p.m.

Joan Teague
Joan Teague

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 3, 1982

(Sub) Committee: Forests, Family Farms, and Energy, and Public Lands and National Parks.

Meeting: Public Field Hearing

Subject: To designate Mount St. Helens as a National Volcanic Area

Bill Nos. H.R. 5773, H.R. 5281, and H.R. 5787

The Joint (Sub) Committee

met in Open Session at 9:00 a.m. o'clock, in ~~XXXX~~ Shumway Jr. High School, 3101 Main Street, Vancouver, Washington.

The following Members were present:

FFFE	PL&NP	Also Present
Mr. Weaver	Mr. Weaver	Mr. Bonker
Mr. Albosta	Mr.	Mr.
Mr. Morrison	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

FFFE	PL&NP
Gregory Skillman, Majority Staff	Dale Crane, Majority Staff
Richard Fritz, Minority Staff	Clay Peters, Minority Staff

Witnesses:

1. Hon. John Spellman, Governor of Washington, represented by David Stevens, Office of the Governor, Legislative Building, State Capitol, Olympia, Washington 98504.

2. Panel:

   Ed Callahan, Skamania County Commissioner, Courthouse Building, Stevenson, Washington 98648;

   Walt Church, Cowlitz County Commissioner, County Administration Building, 207 Fourth Avenue N., Kelso, Washington 98626;

   Harold Cooper, Chairman, Lewis County Commissioners, Lewis County, Box 401, Morton, Washington 98356;

   Vern Veysey, Clark County Commissioner, County Courthouse, Vancouver, Washington 98661.

3. Rose F. Besserman, Councilmember, City of Vancouver, 210 East 13th Street, Vancouver, Washington 98660.

4. Panel:

   Jerry Gilliland, representing Brian Boyle, Washington Department of Natural Resources, Public Lands Building, Olympia, Washington 98504;

   Mike Kuttel, Regional Wildlife biologist, Washington State Department of Game, 5405 N.E. Hazell Dell Avenue, Vancouver, Washington 98663;

   Bruce Crawford, Regional Fisheries biologist, Washington State Department of Game, 5405 N.E. Hazel Dell Avenue, Vancouver, Washington 98663;

   Ken Mahoric, Regional habitat manager, Washington State Department of Fisheries, Plain Road, Vancouver, Washington 98662.

Statements Filed:

Hon. J. T. Quigg, Washington State Senator, 613 North K, Aberdean, Washington 98648.

Saturday, April 3, 1982
Joint Subcommittee Hearing
Public Field Hearing, Vancouver, Washington
To designate Mount St. Helens as a National Volcanic Area

Witnesses (continued)

7. Panel:

Nick Kirkmire, Vice President for Timber Resources, Burlington Northern Railway, 650 Central Building, Seattle, Washington 98104;

David Mote, representing Marv Kittelson, Regional Manager for Land and Timber, International Paper Company, Box 3860, Portland, Oregon 97208;

William Larson, Vice President, Champion International Corporation, Portland, Oregon;

Charles H. Wiggins, Vice President, S.W. Washington Region, Weyerhaeuser Company, 3551 Chinook Street, Longview 98632.

8. Panel:

Dr. Lawrence C. Bliss, Professor and Chairman of Botony, University of Washington, Seattle, Washington 98195;

Dr. Thomas M. Hinckley, Associate Professor, University of Washington, College of Forest Resources, Seattle, Washington 98195;

Dr. Richard F. McGinnis, Associate Professor Biology, Pacific Lutheran University, Tacoma, Washington 98447;

Dr. Anthony J. Irving, Department of Geology, University of Washington, 7728 21st Avenue, N.E., Seattle, Washington 98115.

9. Panel:

Alan B. Adams, Department of Botony, University of Washington, Seattle, Washington 98115;

Christina Boyko, Biologist, University of Washington, 913 23rd Avenue, E., Seattle, Washington 98112;

Robert Norris, geologist, University of Washington, 913 23rd Avenue, E., Seattle, Washington 98112;

James E. Zollweg, University of Washington Geophysics Program, 4815 1/2 Evanston Avenue N., Seattle, Washington 98103.

Saturday, April 3, 1982
Joint Subcommittee Hearing
Public Field Hearing, Vancouver, Washington
To designate Mount St. Helens as a National Volcanic Area

Witnesses (continued)

10. Panel:

Richard P. Wollenberg, President & Chief Executive Officer, Longview Fibre Company, Box 606, Longview, Washington 98632;

Chuck P. Skillman, Executive Secretary, Washington Contract Loggers Assoc., 111 21st Street W., Suite 7, Olympia, Washington 98501;

Philo Gregg, Forester, Industrial Forestry Association, 225 S.W. Broadway, Portland, Oregon 97205;

Martin Devere, Executive Assistant, Northwest Timber Association, Box 5554, Eugene, Oregon 97405;

Harold Olsen, Resource Manager, Western Forest Industry Association, 32252 S.E. Kelso, Boring, Oregon 97009;

Bob Barnes, Stevenson Plywood, representing Western Forest Industries Association, 1500 S.W. Taylor Street, Portland, Oregon 97205;

Rex Caffall, Vice President, Caffall Bros. Forest Products, 25260 S.W. Parkway, Wilsonville, Oregon 97070;

11. Panel:

Paul J. Clare, 3507 N.E. 97th Avenue, Vancouver, Washington 98662;

John A. Metzler, 14710 N.E. Orion Street, Vancouver, Washington 98662;

Richard Rutz, representing The Mountaineers, Seattle, Washington;

Patti Kim, Washington Wilderness Coalition, Box 5691, Seattle, Washington;

Barry Bruner, Cowlitz County Outdoor Club, 204 S. Silver Lake, Castle Rock, Washington 98611.

12. Panel:

Robert D. Smith, Spirit Lake Lodge, Box 37, Toutle, Washington 98649;

Roy L. Ford, Spirit Lake Property Owners Association, 708 N. 23rd Avenue, Kelso, Washington 98626.

Saturday, April 3, 1982
Joint Subcommittee Hearing
Public Field Hearing, Vancouver, Washington
To designate Mount St. Helens as a National
Volcanic Area

Witnesses (continued)

13. Panel:

Clara Ottosen, Owner, Museum of Mount St. Helens, 4004 Spirit Lake Highway, Silver Lake, Washington 98645;

Al Hayward, 917 S.W. Oak, Portland, Oregon 97205.

14. Panel:

James D. Carter, Washington State Vice President, Pacific Northwest Four Wheel Drive Association, 4707 Carol Avenue, Yakima, Washington 98908;

Paul C. Paulsen, Oregon 4-Wheel Drive Clubs, 1547 Elliott Avenue, S.E., Portland, Oregon 97214.

15. Panel:

Mary Ellen Covert, 3126 Columbia Heights Road, Longview, Washington 98632;

Noel McRae, 2857 Rose Valley Lodge Road, Kelso, Washington 98611;

Debbie Frierson, 3102 Pine Street, Longview, Washington 98632;

Russ Jolley, Columbia Chapter, Sierra Club, Portland, Oregon.

16. Panel:

Malcolm R. Dick, Jr., Chairman, Washington State Society of American Foresters, 711 Capitol Way, Evergreen Plaza Building, Suite 608, Olympia, Washington 98501;

Howard Nelson, Washington State Sportsmens' Council, Vancouver, Washington.

17. Panel:

John Tabor, geophysicst, University of Washington, 5042 17th N.E., Seattle, Washington 98105;

Linda Nosen, Seismologist, University of Washington, 2605 E. Lynn Street, Seattle, Washington 98112;

Carol Michelson, geologist, University of Washington, Seattle, Washington 98195;

Phil Austin, geophysicist, University of Washington, Seattle, Washington 98195.

Saturday, April 3, 1982
Joint Subcommittee Hearing
Public Field Hearing, Vancouver, Washington
To designate Mount St. Helens as a National
Volcanic Area

Witnesses (continued)

18. Harold S. Ayer, 1700 N.E. 134th Place, Portland, Oregon 97230.
19. Robert C. Smith, Portland, Oregon.
20. Bob Reistroffer, 146 Scenic View Drive, Longview, Washington 98632.
21. Patricia A. Reistroffer, 146 Scenic View Drive, Longview, Washington 98632.
22. Elsie Stoller, Kelso, Washington 98626.
23. John M. Allinger, 5904 N.E. 112th Street, Vancouver, Washington 98665.
24. Sandy Catt, 204 S. Silver Lake, Castle Rock, 98611.
25. Buck Davis, Post Office Box 929, Castle Rock, 98611.
26. Harold A. Deery, 3148 Laurel Road, Longview, Washington 98632.
27. Lu E. Moore, 1221 Paine Road, Castle Rock, Washington 98611.
28. Joe Walicki, 918 S.W. Gaines, #15, Portland, Oregon 97201.
29. Mitchell P. Searles, 1621 Sightly Road, Toutle, Washington 98649.
30. Don Packard, 2491 Nichols Boulevard, Longview, Washington 98632.
31. Steve Nelson, 2808 N.E. 104th Street, Vancouver, Washington 98665.
32. Joyce Keil, 2908 "Z" Street, Vancouver, Washington 98661.
33. Norma E. Walters, 5727 N.E. Hazel Dell Avenue, Vancouver, Washington 98663.
34. Betty L. Spencer, 6003 Kansas Street, Vancouver, Washington 98661.
35. Mrs. Douglas Reisbick, Vancouver, Washington.
36. Stephen R. Walter, 4525 N.E. 93rd, Seattle, Washington 98115.
37. Anne P. Rathbun, 816 79th N.E., Seattle, Washington 83115.
38. Chris M. Jinientz Trifler, 4319 S.W. Mills, Seattle, Washington 98136.
39. Steve Bryant, 2608 Yale Avenue E., Seattle, Washington 98102.
40. James C. Hudspeth, 4340 Rockaway Beach Road, Bainbridge Island, Washington 98110.

Saturday, April 3, 1982
Joint Subcommittee Hearing
Public Field Hearing, Vancouver, Washington
To designate Mount St. Helens as a National
Volcanic Area

Witnesses (continued)

41. Vernon R. Swaim, Post Office Box 1821, Vancouver, Washington 98661.

42. Richard Hamby, Camas, Washington 98607.

43. Diana McConkey, Camas, Washington 98607.

44. Sharon Inman, Cathlemet, Washington 98612.

45. Cindy Smetana, Vancouver, Washington.

46. Walter Koerber, Vancouver, Washington.

47. Pauline Van Senus, Seattle, Washington.

48. Joan Robbins, 156 Florinita, Seattle, Washington 98109.

49. George Lowe, 3008 Harvard East, #101, Seattle, Washington 98102.

50. Janet Thompson, 5834 N.E. 75th Street, B-301, Seattle, Washington 98115.

51. Paul Meyer, 4150 134th Avenue, S.W., Bellevue, Washington 98006.

52. Carolyn Morrison, Vancouver, Washington.

53. Elizabeth Pincha, Seattle, Washington.

54. William Halliday, Seattle, Washington.

55. Andrew Cort, Seattle, Washington.

56. Marcella Nelson, Vancouver, Washington.

57. Chris Verge, Vancouver, Washington.

58. Mary Fries, Lewis County, Washington.

59. Walter Bossart, Seattle, Washington.

Saturday, April 3, 1982
Joint Subcommittee Hearing
Public Field Hearing, Vancouver, Washington
To designate Mount St. Helens as a National
Volcanic Area

Mr. Weaver, Chairman of the Subcommittee on Forests, Family Farms, and Energy, and ranking member of the Public Lands and National Parks Subcommittee, called the meeting to order at 9:00 a.m. Mr. Weaver noted that both the Senate and the House were actively considering bills to establish a Mount St. Helens National Volcanic Area, and that hearings had been held by both bodies in Washington, D.C. There is wide support among the Washington State Congressional delegation, timber companies, environmental groups, scientists, and local communities to promptly establish such a Volcanic Area. This is needed to preserve the dramatic and dynamic effects of the eruption for the benefits of present and future scientific research and visitor observation. It is imperative to clearly and expeditiously define what portions should be salvage logged and rehabilitated. Timber killed by the blast must be salvaged during this coming logging season, if it is to be recovered before rapid deterioration begins.

Testimony was heard from each of the witnesses listed and Mr. Weaver and the Members present questioned many of them in detail. The meeting was adjourned at 5:00 p.m.

Gregory E. Skillman
Gregory E. Skillman

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 5, 1982

(Sub) Committee: Forests, Family Farms, and Energy

Meeting: Public Field Hearing

Subject: Review of potential industrial and other uses of wood for energy

Bill Nos.

The Forests, Family Farms, and Energy (Sub) Committee

met in Open Session at 9:30 a.m. o'clock, in Room City Hall, 120 S. University Avenue, Mt. Pleasant, Michigan.

The following Members were present:

Mr. Weaver
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
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Staff present:

Gregory Skillman, Subcommittee staff

Witnesses:

1. Panel:
J. S. Tixier, Forest Service, USDA, Eastern Region, Route 9, 633 W. Wisconsin Avenue, Milwaukee, Wisconsin 53205.

Wayne K. Mann, Huron-Manistee National Forest, 421 S. Mitchell Street, Cadillac, Michigan 49601.

Duane Green, Acting Area Director, N.E. Area, State and Private Forestry, 300 Reed Road, Broomall, Pennsylvania 19008.

2. Hank Webster, Chief, Forest Management Division, Michigan Department of Natural Resources, Box 30028, Lansing, Michigan 48909.

3. Panel:
Charles D. Buffington, Executive Assistant to Manager, Office of Natural Resources, Tennessee Valley Authority, Post Office Box 446, Norris, Tennessee 37828.

Larry Hamner, Manager, Forest Management Division, Tennessee Valley Authority, Box 280-1, Clinton, Tennessee 37716.

4. Panel:
Michael T. Mang, Project Coordinator, N.E. Michigan, Post Office Box 457, Gaylord, Michigan 49735.

Dennis Nezich, Project Coordinator, N.W. Michigan, 1222 Rennie Street, Traverse City, Michigan 49684.

Jack Maurer, Project Coordinator, Upper Penninsula, Box 306, Mio, Michigan 48647.

John Byelich, Steering Committee, Upper Penninsula, Box 306, Mio, Michigan 48647.

5. Paul Hillman, North District Director, Farmers' Union Green Thumb, 3480 S. Isabella Road, Mt. Pleasant, Michigan 48858.

6. Norval Morey, President, Morbark Industries, Winn, Michigan 48896.

Statements Filed:

Monday, April 5, 1982
Forests, Family Farms, and Energy Subcommittee
Public Field Hearing, Mt. Pleasant, Michigan
Review of potential industrial and other uses of wood for energy

Witnesses (continued)

7. Sue Swordon, Executive Director, Michigan Forest Association, Route 6, 802 South Nine Mile Road, Midland, Michigan 48640.

8. Dr. Lindo Bartelli, Department of Forestry and Wood Products, Michigan Technical University, Houghton, Michigan 49931.

9. Larry Shaffer, Marketing Manager, R. A. Townsend Company, 1100 Bagley Street, Alpena, Michigan 49707.

10. Phil Swordon, Manager, Forest Programs, Dow Corning Corporation, Midland, Michigan 48640.

11. Bernard Barton, Engineering, Steam Electric Cogeneration Plant, Dow Corning Corporation, Midland, Michigan 48640.

12. Patrick A. Walters, Senior Technical Service and Development Specialist, Wood to Methanol Conversion Program, Dow Corning Corporation, Midland, Michigan 48640.

Mr. Weaver, Chairman of the Forests, Family Farms, and Energy Subcommittee, called the meeting to order at 9:30 a.m. He noted the great potential of our nation's forests to contribute to the nation's energy supplies through better utilization of wood wastes. He also noted that these wood wastes could be made available through the process of necessary timber stand improvement work. Many of our nation's forests are in great need of such work in order to improve their productive capacity. Both timber stand improvement work and the better utilization of wood wastes, culls, and thinnings for energy can generate a tremendous number of forestry related jobs. He went on to say that private forest land owners, state forestry agencies, the Forest Service, and organizations such as the Tennessee Valley Authority and the Northwest's Bonneville Power Authority have a great opportunity to exercise coordinated leadership in this area.

Testimony was heard from each of the witnesses listed and Mr. Weaver and Congressman Albosta questioned them in detail. The meeting was adjourned at 3:00 p.m.

Gregory E. Skillman

Gregory E. Skillman

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 16, 1982

(Sub) Committee: Department Operations, Research and Foreign Agriculture

Meeting: Public Field Hearing

Subject: Local Efforts to Retain Agricultural Land

Bill Nos. --

The Department Operations, Research and Foreign Agriculture (Sub) Committee

met in Open Session at 9:30 a.m. o'clock, in XXXX City Council Chambers, Ontario, California

The following Members were present:

Mr. George E. Brown, Jr.
Mr.
Mr.
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Mr.
Mr.
Mr.
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Mr.

Staff present:

Dr. Charles M. Benbrook

Witnesses:

1. Eugene Andreucetti, Acting State Conservationist, Soil Conservation Service.

   accompanied by:

   Darwin Briggs, Assistant State Conservationist for Program Development, Davis, CA.

   Ronald Moore, Local Conservationist, Redlands, CA.

2. Jan Denton, Director, California Department of Conservation, Sacramento, CA.

   accompanied by:

   Richard Rominger, Director, California Department of Food and Agriculture, Sacramento, CA.

3. George Rendell, Regional Director, Cooperative Extension Service, Riverside, CA.

4. Frank Hotchkiss, Director of Planning, Southern California Assoc. of Governments.

5. Robert Townsend, Supervisor, San Bernardino County

   accompanied by:

   The Honorable Robert Ellingwood, Mayor of Ontario

   Roger Birdsall, Agricultural Commissioner, San Bernardino County

   Walter Wells, Administrative Aide, San Bernardino County

6. Robert Howie, Commissioner of Agriculture, Riverside County

7. Robert Feenstra, General Manager, Ontario Milk Producers

   accompanied by:

   Neil Kasbergen, dairy farmer, Ontario, CA.

   Fred A. Douma, dairy farmer, Ontario and Barstow, CA.

Friday, April 16, 1982
Department Operations, Research,
and Foreign Agriculture Subcommittee
Public Field Hearing, Ontario, CA.
Local Efforts to Retain Agricultural
Land

Mr. Brown, Chairman of the Department Operations, Research, and Foreign Agriculture Subcommittee, called the meeting to order at 9:30 a.m. He discussed the importance of state and local initiatives in the area of agricultural land protection. He also explained the purpose of the hearing and how it relates to an on-going series of oversight hearings the Subcommittee is conducting in Washington.

Testimony was heard from each of the witnesses listed and Mr. Brown questioned them in detail. The meeting was adjourned at 4:00 p.m.

Charles Benbrook

Charles M. Benbrook, Ph.D.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 19, 1982

(Sub) Committee: Forests, Family Farms, and Energy

Meeting: Public Field Hearing

Subject: Review of potential industrial and other uses of wood for energy

Bill Nos. --

The Forests, Family Farms, and Energy (Sub) Committee met in Open Session at 9:30 a.m. o'clock, in Room City Council Chambers, Springfield, Oregon.

The following Members were present:

Mr. Weaver
Mr.
Mr.
Mr.
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Mr.

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Mr.

Staff present:

Gregory E. Skillman

Witnesses:

1. Panel:

John (Jack) Stinson, Manager of Biomass Fuels Program, Tennessee Valley Authority, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama 35660.

Charles D. Buffington, Chief, Planning and Program Development, Office of Natural Resources, Tennessee Valley Authority, 803 Locust Street, Knoxville, Tennessee 37902.

2. Panel:

Dick Schaefer, Energy Resource Specialist, Bonneville Power Administration, 1002 N.E. Holladay, Portland, Oregon 97232.

Jack Hornor, Resource Acquisition Manager, Bonneville Power Administration, 1002 N.E. Holladay, Portland, Oregon 97232.

3. Panel:

Tom Beard, Fire Management Officer, U.S. Forest Service, Lassen National Forest, 707 Nevada Street, Susanville, California 96130.

Robert D. Olson, Fuels Management Officer, U.S. Forest Service, Lassen National Forest, Eagle Lake Ranger District, 472-013 Johnstonville Road, Susanville, California 96130.

4. Harry Hanscom, Mill Owner, Hanscom Bros., Inc., 1919 Stevens Road, Eagle Point, Oregon 97524.

5. Ray Craig, Service Forestry Director, State Department of Forestry, 2600 State Street, Salem, Oregon 97301.

6. Bob Metzger, Forestry Chief, Planning Coordination Section, Bureau of Land Management, 825 N.E. Multnomah, #1400, Portland, Oregon 97232.

7. Panel:

Bob Lease, Group Leader in Timber Sales Preparation, Region 6, 319 S.W. Pine Street, Post Office Box 3623, Portland, Oregon 97208.

Bud Twombley, Regional Silviculturalist, Region 6, 319 S.W. Pine Street Post Office Box 3623, Portland, Oregon 97208.

Dennis Martin, Fire Management Staff, Willamette National Forest, Box 10607, Eugene, Oregon 97440.

Monday, April 19, 1982
Forests, Family Farms, and
Energy Subcommittee
Public Field Hearing, Springfield, Ore.
Review of potential industrial and
other uses of wood for energy

Witnesses (continued)

8. Panel:

Greg Prull, Hoedad's Inc., 454 Willamette, Eugene, Oregon 97401

Rick Koven, North West Forest Workers Association, 795 Willamette, Room 310, Eugene, Oregon 97401.

9. Panel:

Larry Fellows, Forest Supervisor, U.S. Forest Service, Siuslaw National Forest, Box 1148, Corvallis, Oregon 97339.

Tony VanderHeide, Watershed Staff Specialist, U.S. Forest Service, Siuslaw National Forest, Box 1148, Corvallis, Oregon 97339.

10. Andy Stahl, National Wildlife Federation, Law Center, University of Oregon, Eugene, Oregon 97403.

11. Larry Simmons, Simmons Fiber Company, Medford, Oregon

Mr. Weaver, Chairman of the Forests, Family Farms, and Energy Subcommittee, called the meeting to order at 9:30 a.m. He noted the great potential of our nation's forests to contribute to the nation's energy supplies through better utilization of wood wastes. He also noted that these wood wastes could be made available through the process of necessary timber stand improvement work. Many of our nation's forests are in great need of such work in order to improve their productive capacity. Both timber stand improvement work and the better utilization of wood wastes, culls, and thinnings, for energy can generate a tremendous number of forestry related jobs. He went on to say that private forest land owners, state forestry agencies, the Forest Service, and organizations such as the Tennessee Valley Authority and the Northwest's Bonneville Power Authority have a great opportunity to exercise coordinated leadership in this area.

Testimony was heard from each of the witnesses listed and Mr. Weaver questioned them in detail. The meeting was adjourned at 2:30 p.m.

Gregory E. Skillman
Gregory E. Skillman

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, April 22, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Progress toward efficient and sustainable agricultural systems; Oversight on U.S. Department of Agriculture programs and activities

Bill Nos. NONE

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 9:30 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Brown
Mr. Wampler
Mr. Roberts, Kans.
Mr. Emerson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

ALSO PRESENT:
Mr. Stangeland
Mr.
Mr.
Mr.
Mr.
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Staff present:

Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Tom Adams, Staff Assistant
Skip Stiles, Legis. Ass't. to Mr. Brown
Chris Abram, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

1. Honorable Arlan Stangeland, Member of Congress from Minnesota
2. Dr. Ken Farrell, Director, Food and Agricultural Policy Program, Resources for the Future, Washington, D.C.
   Accompanied by: Dr. Pierre Crosson
   Dr. Christopher K. Leman
3. Mr. Neil Sampson, Executive Vice President, National Association of Conservation Districts, Washington, D.C.
4. Mr. Bruce Ross-Sheriff, "Land Productivity Study" Project Director, Food and Renewable Resources, Office of Technology Assessment, Washington, D.C.
5. Dr. Jan Van Schilfgaarde, Director, U.S. Salinity Laboratory, Riverside, California

Statements Filed:

Honorable Arlan Stangeland, Member of Congress from Minnesota

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Thursday, April 22, 1982
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Public Hearing
Progress toward efficient and sustainable agricultural systems; Oversight on U.S. Department of Agriculture programs and activities

Chairman Brown called the meeting to order and summarized his opening statement about the purpose of the hearing. The full text of the statement was made a part of the record. Mr. Wampler also made opening remarks.

The witnesses listed on page two presented testimony and responded to questions from Members of the Subcommittee as appearing in the record.

The Subcommittee adjourned at 12:15 p.m., to reconvene at 2:00 p.m. this date to hear additional witnesses on this subject.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, April 22, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Progress toward efficient and sustainable agricultural systems: Oversight on U.S. Department of Agriculture programs and activities

Bill Nos. None

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 2:10 pm o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Brown
Mr.
Mr.
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Mr.

Staff Present:

Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Anita Brown, Staff Assistant
Tom Adams, Staff Assistant
Jerry Welcome, Staff Assistant
Skip Stiles, Legislative Assistant to Mr. Brown
Peggy Pecore, Clerk

Witnesses:

1. Agricultural Land Protection:

   Mr. Richard D. Siegel, Deputy Assistant Secretary for Natural Resources and Environment, U.S. Department of Agriculture, accompanied by: Mr. Howard Tankersley, Director, Land Use Study, Soil Conservation Service, USDA
   Mr. Jerome Hytry, Assistant Deputy Chief for State and Local Offices, Soil Conservation Service, USDA

2. Organic Farming Activities and Research:

   Dr. Anson R. Bertrand, Director, Science and Education Administration, U.S. Department of Agriculture, accompanied by: Dr. Garth Youngberg, Organic Farming Coordinator

Statements Filed:

Mr. Richard D. Siegel

Thursday, April 22, 1982 - P.M.
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Public Hearing
Progress toward efficient and sustainable
agricultural systems: Oversight on U.S.
Department of Agriculture programs and
activities

Chairman Brown called the meeting to order to hear additional testimony on USDA programs and activities.

The witnesses. listed on page two presented their statements and responded to questions as appearing in the record.

The Subcommittee adjourned at 3:25 p.m., to reconvene at 9:30 a.m. on Tuesday, April 27, 1982, to hear witnesses on soil and water conservation programs administered by the Department of Agriculture.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, April 22, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: Futures Trading Act of 1982

Bill Nos. H.R. 5447

The Full ~~(Sub)~~ Committee

met in open Session at 10:07 o'clock, in Room 1301

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Bowen
Mr. Richmond
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Daschle

Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Jeffords
Mr. Hagedorn
Mr. Coleman
Mr. Hopkins
Mr. Hansen
Mr. Stangeland
Mr. Roberts (Ka.)
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts (S.Dak.)
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.

Staff:

Bob Bor, Chief Counsel
Bob Lowerre, Associate Counsel
John Hogan, Minority Counsel
Bernie Brenner, Press Assistant
Fowler West, Legislative Assistant
Glenda Temple, Staff Assistant
Bob Cashdollar, Subcommittee Staff Director

Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Chris Abram, Staff Assistant

Witnesses:

The following represented the Commodity Futures Trading Commission and responded to questions concerning the legislation.

1. Hon. Phillip McBride Johnson, Chairman, Commodity Futures Trading Commission, Washington, D.C.

Statements Filed:

None

Thursday, April 22, 1982
Full Committee
Business Meeting
Futures Trading Act of 1982
H.R. 5447

Action Taken:

-- Without objection English amendment to Jeffords amendment on controlling persons withdrawn.

-- By show of hands vote of 17 yeas-2 nays Glickman substitute amendment to Jeffords amendment on controlling persons adopted.

-- Without objection, Jeffords amendment, as amended by Mr. Glickman, agreed to.

-- By voice vote Coleman amendment on introducing brokers approved.

-- Without objection report language on foreign currency by Mr. Richmond approved.

-- Without objection report language on commodity pools by Mr. Jeffords approved.

-- Without objection report language on delivery points by Mr. Huckaby approved.

-- By voice vote English amendment on confidentiality provision--disclosure adopted.

-- Without objection Foley-Jeffords report language on foreign futures adopted.

-- By voice vote Glickman amendment on legislative findings adopted.

-- Without objection Glickman language for Committee report on leverage contracts agreed to.

-- By voice vote H.R. 5447, as amended, ordered reported to the House in the presence of a quorum.

Chairman de la Garza called the meeting to order for the purpose of considering the Futures Trading Act of 1982 (H.R. 5447). He made a brief opening statement on the need for the legislation. Mr. Wampler, the Ranking Minority Member of the Committee, also made a brief opening statement on the need for the measure.

Thursday, April 22, 1982
Full Committee
Business Meeting
Futures Trading Act of 1982
H.R. 5447

Subcommittee Chairman Jones (Tenn.), of the Conservation, Credit, and Rural Development Subcommittee, made a report on the Subcommittee's consideration of the bill. Attached is a copy of the Committee Print, as reported by the Subcommittee, together with a brief explanation. See Subcommittee minutes of March 30 (A.M.) for a summary of testimony of hearings. Mr. Jeffords, the Ranking Minority Member of the Subcommittee, also made opening comments.

Mr. Jones (Tenn.) moved that the Committee Print of H.R. 5447 be considered as read and before the Committee and that said bill be open for amendment at any point. There was no objection.

Mr. Jeffords offered the attached amendment dealing with liability for controlling persons. Discussion occurred.

Mr. English moved to amend the Jeffords amendment by striking the words "or indirectly" in the last line and by striking the word "and" in the next to last line and inserting in lieu thereof "or". Discussion continued.

Mr. Glickman offered as a substitute the language contained on page 56 of the Committee Print with the exception that on line 16 "and" be changed to "or".

Discussion continued and without objection Mr. English withdrew his amendment to the Jeffords amendment. By a show of hands vote of 17 yeas-2 nays the Glickman substitute amendment was adopted. Without objection, the Jeffords amendment, as amended, was then adopted.

Mr. Coleman offered the attached amendment giving CFTC additional power on introducing brokers. Discussion occurred and by a voice vote the amendment was adopted.

Mr. Richmond distributed the attached report language on the meaning of the term "foreign currency". Discussion occurred and without objection the Richmond proposal was approved for inclusion in the Committee report.

Mr. Jeffords proposed the attached language on commodity pools for inclusion in the Committee report. Discussion occurred and without objection the language was approved.

Mr. Huckaby offered the attached language concerning delivery points for inclusion in the Committee report. Discussion occurred and without objection the language was adopted.

Thursday, April 22, 1982
Full Committee
Business Meeting
Futures Trading Act of 1982
H.R. 5447

Mr. English moved to amend the section on confidentiality provisions--disclosure--by adding the word "adjudicatory" after the word "any" on page 34, line 2 and again on line 12. By a voice vote the amendment was approved.

Mr. Jeffords offered on behalf of himself and Mr. Foley report language on section 4(b) of the Act regarding protection of interests of U.S. residents against fraudulent or other harmful practices by vendors of foreign futures. Discussion occurred and without objection the proposed language was approved for inclusion in the Committee report.

Mr. Glickman offered the attached amendment on legislative findings. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Glickman proposed report language on leverage transactions (as attached). Discussion occurred and the language was approved for inclusion in the Committee report.

Mr. Jones (Tenn.) moved that H.R. 5447, as amended, be ordered reported to the House. By a voice vote and in the presence of a quorum (22 Members in the Chamber at the time the vote was taken) the motion was agreed to and H.R. 5447, as amended, was ordered reported to the House with the recommendation that it do pass.

Counsel called to the Committee's attention a problem in Title I of the bill whereby several references are made to "P.L. ___". He suggested that the Committee include in lieu of an undesignated public law number the phrase "date of enactment of the Futures Trading Act of 1982". Without objection, staff was instructed to make the change.

Members were given three legislative days in which to submit additional views for inclusion in the Committee report, and staff was instructed to make any necessary clerical or technical changes to reflect the Committee's intent.

At 11:45 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

[COMMITTEE PRINT]

APRIL 19, 1982

(As reported to the Committee on Agriculture by the Subcommittee on Conservation, Credit, and Rural Development on April 1, 1982)

97TH CONGRESS
2D SESSION

H. R. 5447

To extend the Commodity Exchange Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1982

Mr. JONES of Tennessee (for himself and Mr. JEFFORDS) (by request) introduced the following bill; which was referred to the Committee on Agriculture

[Strike out all after the enacting clause and insert the part printed in italic]

[For complete text of original bill, see H.R. 5447 as introduced on February 3, 1982]

A BILL

To extend the Commodity Exchange Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1982".

TITLE I—JURISDICTION

OPTIONS; FUTURES CONTRACTS

SEC. 101. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) redesignating paragraph (1) as paragraph (1)(A);

(2) inserting in the third sentence of paragraph (1)(A), as so redesignated ", except to the extent otherwise provided in subparagraph (B) of this paragraph," after "exclusive jurisdiction";

(3) adding a new subparagraph (B) to read as follows:

"(B) Notwithstanding any other provision of law—

"(i) This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the effective date of Public Law), including any group or index of such securities, or any interest therein or based on the value thereof.

"(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty) and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): Provided, however, That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

"(a) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an

exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the effective date of Public Law (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the effective date of Public Law);

"(b) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

"(c) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

"(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) hereof, and shall consult with the Securities and Exchange Commission with respect to such designation. If, within fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) hereof is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days

after the close of the public comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. In the event that such an oral hearing is held and the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of section 6(b) of this Act. In the event that, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

"(iv) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the effective

date of Public Law (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the effective date of Public Law); or except as provided in clause (ii) hereof, any group or index of such securities or any interest therein or based on the value thereof.".

OPTIONS ON FOREIGN CURRENCIES

SEC. 102. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding a new subsection (f) to read as follows:

"(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.".

COMMODITY POOLS

SEC. 103. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—

(1) designating the text of existing section 4m as subsection (1) of such section; and

(2) adding a new subsection (2) to read as follows:

"(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of

1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.".

SHARING INFORMATION WITH CONTRACT MARKETS AND OTHER SELF-REGULATORY ORGANIZATIONS

SEC. 104. Section 8a(6) of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting "registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934," before "notwithstanding"; and

(2) striking out "and consumers" and inserting in lieu thereof a comma and immediately thereafter "consumers or investors, or which is necessary or appropriate to effectuate the purposes of this Act: Provided, however, That any information furnished by the Commission under this subsection shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding".

TITLE II—MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

DEFINITION OF COMMODITY TRADING ADVISOR; TECHNICAL AMENDMENT

SEC. 201. Section 2(a) of the Commodity Exchange Act is amended by—

(1) amending the definition of the term "commodity trading advisor" in paragraph (1)(A) (7 U.S.C. 2), as redesignated, to read as follows: "The term 'commodity trading advisor' shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract for future delivery of a commodity made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, of this Act, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant or teacher, (iii) any floor

broker of futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation or order: Provided, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: Provided further, That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.";

(2)(A) redesignating paragraph (7)(A) (7 U.S.C. 4a(f)(1)) as paragraph (7); and

(B) striking out existing paragraphs (7)(B) (7 U.S.C. 4a(f)(2)).

LEGISLATIVE FINDINGS

SEC. 202. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended by—

(1) inserting "or options" after "futures" in the first clause;

(2) striking out in the second, third, and fourth clauses "that" each time it appears;

(3) striking out after "price" at the end of the fourth clause the semicolon and inserting in lieu thereof a period;

(4) striking out the fifth and sixth clauses.

UNLAWFUL FUTURES TRADING; FOREIGN FUTURES

SEC. 203. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended to read as follows:

"SEC. 4. (a) It shall be unlawful for any person to offer to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States or its territories or possessions for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on a board of trade, exchange or market located outside the United States, its territories or possessions) unless: (1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity, (2) such contract is executed or consummated by or through a member of such contract market, and (3) such contract is

evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and terms of delivery: Provided, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the United States Department of Justice.

"(b) The Commission may adopt rule and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk and reporting requirements, the keeping of books and records, the safeguarding of customer funds, and registration with the Commission by any person located in the United States, its territories, or possessions who engages in the offer and sale of any contract of sale of a commodity for future delivery which is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade or market on which such contracts are made. No rule or regulation shall be adopted by the Commission under this subsection that (1) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such market; or (2)

requires Commission approval of any contract, rule, regulation, or action of any such market or its clearinghouse.".

SPECULATIVE LIMITS

SEC. 204. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by—

(1) adding in the fourth sentence of subsection (1) after "delivery months," the words "or for different number of days remaining until the last day of trading in a contract,";

(2) striking out in subsection (2) "order's promulgation" and inserting in lieu thereof "promulgation of the rule, regulation, or order";

(3) adding "rule, regulation, or" before "order" wherever it occurs in such section;

(4) amending subsection (3) to read as follows:

"(3) No rule, regulation, or order issued under subsection (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this Act: Provided, That such terms shall permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available

on an exchange. For the purpose of determining the adequacy of this Act and the powers of the Commission acting thereunder to diminish, eliminate or prevent unwarranted price pressures by very large hedgers operating under this subsection, the Commission shall monitor the trading activities of large hedgers selected by the Commission and shall report its findings and recommendations to the Senate Agriculture, Nutrition, and Forestry Committee and the House Committee on Agriculture in its annual report for each of the four years following the date of enactment of the Futures Trading Act of 1982."; and

(5) adding a new subsection (5) to read as follows:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission, of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities, traded on or subject to the rules of such contract market or such board of trade: Provided, That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commod-

ity option, the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation or resolution has been approved by the Commission: Provided, That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits.".

AGRICULTURAL OPTIONS

SEC. 205. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out clause (B) of subsection (a);

(2) redesignating clause (C) of subsection (a) as clause (B);

(3) in subsection (b), striking out the following phrases: (a) "subject to the provisions of subsection (a) of this section", (b) ", but not specifically set forth in section 2(a) of this Act, prior to the enactment of the Commodity Futures Trading Commission Act of

1974,", and (c) "within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time"; and

(4) in subsection (c), inserting immediately after the first sentence the following: "With respect to any commodity regulated under this Act and specifically set forth in section 2(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, authorize a pilot program for a period not to exceed three years to permit such commodity option transactions if such authorization does not apply to more than one such commodity at any contract market approved therefor by the Commission, and beginning three years following the authorization of such pilot program, the Commission may authorize transactions in such commodities at contract markets approved therefor without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition,

and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of sixty calendar days of continuous session of Congress after the date of such transmittal.".

REGISTRATION—TECHNICAL AMENDMENTS

SEC. 206. Section 4f(1) of the Commodity Exchange Act (7 U.S.C. 6f) is amended by—

(1) striking out in the first sentence "and of all correspondents and agents"; and

(2) striking out in the third sentence "after notice and hearing as prescribed in this Act" and inserting in lieu thereof "pursuant to the provisions of this Act".

MISREPRESENTATION—TECHNICAL AMENDMENTS

SEC. 207. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended by—

(a) striking out everything following the word "person" through and including "(2)";

(b) striking out "futures commission merchant registered" and inserting in lieu thereof "registrant"; and

(c) striking out "agent of such registered futures commission merchant" and inserting in lieu thereof "representative or agent of any registrant".

RECORDKEEPING CONFORMED TO CURRENT SYSTEM—
LARGE TRADER REPORTS

SEC. 208. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows:

"SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

"(1) if such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

"(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission, unless, such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions within the provisions of (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep

books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of, such commodity.

Such books and records shall show complete details concerning all such transactions, positions, inventories and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.".

REGISTRATION, ASSOCIATED PERSON STATUS

SEC. 209. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended to read as follows:

"SEC. 4k. (1) It shall be unlawful for any person to be associated with a futures commission merchant as a partner, officer, employee or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervi-

sion of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such futures commission merchant and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked, and it shall be unlawful for a futures commission merchant to permit such a person to become or remain associated with the futures commission merchant in any such capacity if such futures commission merchant knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: Provided, That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

"(2) It shall be unlawful for any person to be associated with any commodity pool operator as a partner, officer, employee, consultant or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity pool operator, under this Act, with the Commission and such registration shall not have expired, been suspended (and

the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity pool operator to permit such a person to become or remain associated with him in any such capacity if such commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: Provided, That any individual who is registered as a floor broker, futures commission merchant, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: Provided further, That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.

"(3) It shall be unlawful for any person to be associated with any commodity trading advisor as a partner, officer, employee, consultant or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity trading advisor, under this Act, with the Commission and such registration shall not have expired, been suspended (and the

period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity trading advisor to permit such a person to become or remain associated with him in any such capacity if such commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: Provided, That any individual who is registered as a floor broker, futures commission merchant, commodity trading advisor or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: Provided further, That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.

"(4) Any person desiring to be registered as an associated person of a futures commission merchant, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such reg-

istration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.".

CONFORMING AMENDMENT

SEC. 210. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections (5) and (6) in their entirety.

EXTENSION OF ANTIFRAUD PROVISION

SEC. 211. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended by striking out "commodity trading advisor or commodity pool operator" and inserting in lieu thereof "commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator" each place such words occur.

EXTENSION OF AUTHORITY REGARDING PROFICIENCY EXAMINATION

SEC. 212. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) striking out in the first sentence "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and inserting in lieu thereof "persons registered with the Commission";

(2) striking out in the second and third sentences "as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers"; and

(3) striking out in the last sentence "the customers of futures commission merchants and floor brokers" and inserting in lieu thereof "customers, clients, pool participants, or other members of the public with whom such persons deal".

REGISTRATION INFORMATION TO THE STATES

SEC. 213. The Commodity Exchange Act is amended by adding a new section 4q to read as follows:

"SEC. 4q. The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof.

Whenever the Commission determines that such information may be helpful to any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.".

DESIGNATION OF CONTRACT MARKETS

SEC. 214. Section 5(g) of the Commodity Exchange Act (7 U.S.C. 7(g)) is amended by adding at the end thereof the following: "In determining whether designation of such board of trade as a contract market for any commodity would be contrary to the public interest, the Commission shall consider, among other things, the extent to which trading in the commodity for which such designation is sought is likely to divert investment capital away from the capital formation process, to cause price manipulation, and to cause price destabilization in that commodity.".

CONTRACT MARKET RULES

SEC. 215. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by—

(1) amending subsection 5a(8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which (1) have been approved by the Commission pursuant to paragraph (12) of this section, (2) have become effective under such paragraph, or (3) must be enforced pursuant to

any Commission rule, regulation or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;";

(2) amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions (rules) made or issued by such contract market, or by the governing board thereof or any committee thereof, which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and shall not place such rules into effect if, within ten days of receipt by the Commission of such submission, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review for approval such

rules. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register a notice of such rules. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific section or sections of this Act or the Commission's regulations which would be violated.

At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be placed into effect by the contract market until such time as the Commission disapproves such rule in accordance with this subsection. The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make effective a rule on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board *may place into effect immediately a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved.".*

ARBITRATION

SEC. 216. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended to read as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: Provided, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this subsection shall not include another member of the contract market; and".

SEC. 217. Section 17(b)(10) of the Commodity Exchange Act (7 U.S.C. 21) is amended to read as follows:

"(10) the rules of the association provide a fair and equitable expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: Provided, That (i) the use of such procedure by a customer shall be voluntary, and (ii) the term 'customer'

as used in this subsection shall not include another member of the association.".

DESIGNATION PROCEDURES

SEC. 218. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following: "The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form: Provided, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial.".

APPEALS

SEC. 219. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

(1) striking out in the first and ninth sentences "as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator,

or as floor broker hereunder" and inserting in lieu thereof "with the Commission in any capacity"; and

(2) inserting in the eleventh sentence after "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

RESTRAINING ORDERS

SEC. 220. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a–1) is amended by adding in the proviso contained in the first sentence after "no restraining order" the following: "(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission from inspecting when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property)".

CONFIDENTIALITY PROVISIONS—DISCLOSURE

SEC. 221. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by—

(1) adding at the end of subsection (a) the following:

"The Commission shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(1) the Commission shall, when requested by a submitter at the time of submission of information to the Commission, notify the submitter, within five days of receipt of a request, that such a request for records containing such information has been made under the Freedom of Information Act;

"(2) a submitter or requester may submit to the Commission written argument regarding a request made for disclosure of records; and

"(3) the Commission is not required to notify a submitter of the receipt of a request under clause (1) of this subsection if—

"(A) the Commission determines, prior to giving such notice, that the request for disclosure should be denied;

"(B) the disclosure is pursuant to law (other than this section) or Commission rule which requires disclosure of specific records in such a manner as to leave no discretion on the issue; or

"(C) the information has been published or otherwise made available to the public.";

(2) amending subsection (b) by—

(A) striking out "or" before "in an administrative or judicial proceeding"; and

(B) inserting immediately before the period at the end thereof ", in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code";

(3) amending subsection (e) by—

(A) striking out "of the Executive Branch"; and

(B) adding at the end thereof the following: "Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Any information furnished to any department or agency of any State or political sub-

division thereof shall not be disclosed by such department or agency except in connection with any action or proceeding brought under this Act or the laws of such State or political subdivision to which such State or political subdivision, or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with any action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party."; and

(4) adding a new subsection (h) at the end thereof as follows:

"(h) The Commission shall disclose information in its possession pursuant to a subpena or summons only if—

"(1) a copy of the subpena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpena or summons, if the address is known to the Commission, and

"(2) fourteen days have expired from the date of mailing of the subpena or summons.".

REGISTRATION AUTHORITY; TEMPORARY LICENSE

SEC. 222. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended to read as follows:

"(1) to register futures commission merchants, associated persons of futures commission merchants, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registration and renewals thereof: Provided, That notwithstanding any provision of this Act, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt: Provided further, That the term of any

such temporary license shall not exceed six months from the date of its issuance; and".

STATUTORY DISQUALIFICATION FROM REGISTRATION

Sec. 223. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) amending paragraph (2) to read as follows:

"(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, to suspend, or to place restrictions upon the registration of, any person and with such a hearing as may be appropriate, to revoke the registration of any person—

"(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

"(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

"(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that

registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, or concerning activity subject to Commission regulation under section 4c or 19 of this Act or concerning securities;

"(D) if such person has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any felony which (i) involves any transactions or advice concerning any contract of sale of a com-

modity for future delivery, or any activity subject to Commission regulation under section 4c or 19 of this Act, or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Com-

mission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered

futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

"(G) if, as to any of the matters set forth in paragraphs (A) through (F) of this paragraph, such person willfully made any material false or misleading statement or omitted to state any material fact in his application; or

"(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph: Provided, That for the purposes of paragraphs (2) and (3) of this section, principal shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the

Commission: Provided, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in paragraph (b) of section 6 of this Act; and";

(2) striking out existing paragraph (4) and redesignating existing paragraph (3) as paragraph (4);

(3) adding a new paragraph (3) to read as follows:

"(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

"(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated or has consented to findings of a violation of, any provision of this Act, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

"(B) such person has been found by any court of competent jurisdiction or by any Federal

or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this Act, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: Provided, That no person shall

be deemed to have failed reasonably to supervise another person, within the meaning of this paragraph if (i) there have been established procedures, and a system for applying such procedures which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

"(D) such person was convicted of a felony other than a felony of the type specified in section 8a(2)(D) of this Act within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including a felony of the type specified in paragraph (2)(D) of this section, more than ten years preceding the filing of the application;

"(E) such person was convicted within ten years preceding the filing of any application for registration or at any time thereafter of any misdemeanor which (i) involves any transactions or advice concerning any contract of sale of a com-

modity for future delivery or any activity subject to Commission regulation under section 4c or 19 of this Act or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(F) such person was debarred by any agency of the United States from contracting with the United States;

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in such person's ap-

plication or in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

"(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this Act or under the rules or regulations of the Commission, such person has not established that he meets such minimum financial requirements;

"(J) such person is subject to an outstanding order denying, suspending, or expelling him from membership in a contract market, a registered futures association, or in any other self-regulatory organization, or barring or suspending him from being associated with any member or members of such contract market, association, or self-regulatory organization;

"(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities, or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

"(L) such person has associated with him any person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

"(M) there is other good cause; or

"(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph (3), registration shall not be granted: Provided further, That such person may appeal from a decision to refuse registration or to condition registration made pursuant to the provisions of this paragraph in the manner provided in paragraph (b) of section 6 of this Act; and";

(4) amending paragraph (4), as redesignated, by—

(A) striking out "or revoke" the first time it appears and inserting in lieu thereof a comma and immediately thereafter "revoke, or to place restrictions upon";

(B) striking out "subparagraph (2)(B) or (C)" and inserting in lieu thereof "paragraph (3) of this section"; and

(C) adding the following proviso before the semicolon at the end thereof: "; Provided, That such person may appeal from a decision to suspend, revoke, or to place restrictions upon registration made pursuant to the provisions of this

subsection in the manner provided in paragraph (b) of section 6 of this Act; and";

(5) striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(6) adding a new paragraph (10) to read as follows:

"(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

EMERGENCY POWERS—JUDICIAL REVIEW

SEC. 224. Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended to read as follows:

"(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including the setting of temporary emergency margin levels on any futures contract, and the fixing of positions limits that may apply to a position acquired in good faith prior to the effective date of the Commission's action. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the

United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States court of appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the court of appeals for the District of Columbia circuit. Such review shall be based upon an examination of all of the information before the Commission at the time the determination is made. The court reviewing the Commission's action shall not enter a stay or order of mandamus it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolution; and".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 225. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) amending subsection (a) to read as follows:

"(a) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts, or which otherwise was received from any customer, client or pool participant in connection with the business of such person. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. The word 'value' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied reregistration for five years or such longer period as the Commission shall determine, unless the Commission determines that the imposition

of such suspension or denial of reregistration is not required to protect the public interest.";

(2) amending subsection (b) by adding at the end thereof the following: "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration for reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest.";

(3) amending subsection (c) by adding at the end thereof the following: "Other provisions of this subsection notwithstanding, a person convicted under this subsection of knowingly violating the provisions of section 4a shall be suspended from any registration under this Act, denied registration or reregistration for a period to two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by

the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest.";

(4) amending subsection (d) to read as follows:

"(d) It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly and indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly know to the trade as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty, or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity. Such

prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, and (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit or similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe *and the Commission shall make such information available to the public.";* and

(5) inserting after the words "'decline guaranty'," in each place they appear in subsection 9(e) the following:", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

REAUTHORIZATION

SEC. 226. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by amending subsection (d) to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years beginning October 1, 1982 and ending September 30, 1986.".

OFF-EXCHANGE JURISDICTION—ROLE OF STATES

SEC. 227. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding a new subsection (e) to read as follows:

"(e) Nothing in this Act shall supersede or preempt—

"(1) criminal prosecution under any Federal criminal statute;

"(2) any Federal or State statute, including any rule or regulation thereunder, that is applicable to any transaction in or involving any commodity, product, right, service, or interest that is not conducted on or subject to the rules of a contract market, or (except as otherwise specified by the Commission by rule or regulation) on any board of trade, exchange or market located outside the United States, its territories or possessions, or subject to regulation by the Commission under section 4c or 19 of this Act; or

"(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation. The Commission is authorized to refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action or proceedings as the department or agency shall deem appropriate.".

AIDING AND ABETTING—CONTROLLING PERSON

Sec. 228. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended by—

(1) striking out "in administrative proceedings under this Act" in subsection (a);

(2) redesignating existing subsection (b) as subsection (c); and

(3) adding a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person liable under any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person: Provided, That the Commission has the burden of proving that the controlling person did not act in good faith and directly or indirectly induced the act or acts constituting the violation.".

REPARATIONS PROCEDURE

Sec. 229. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) amending subsection (a) to read as follows:

"(a) Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person who is registered under this Act may, at

any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.";

(2) striking out existing subsections (b), (c), and (e);

(3) redesignating subsections (d), (f), (g), (h), and (i) as (c), (d), (e), (f), and (g), respectively;

(4) adding a new subsection (b) to read as follows:

"(b) The Commission may promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing and service of pleadings or orders; and the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.";

(5) changing the reference in subsection (d), as so redesignated, from "(g)" to "(e)"; and

(6) amending subsection (f), as so redesignated, to read as follows:

"(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: Provided, That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.".

TECHNICAL AMENDMENT

SEC. 230. Section 16 of the Commodity Exchange Act (7 U.S.C. 20) is amended by inserting "or market positions" after "transactions" in subsection (d).

REGISTERED FUTURES ASSOCIATIONS

SEC. 231. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) amending subsection (b)(4)(E) by inserting before the period at the end thereof the following: ", which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General the results of such identification and processing";

(2) changing the reference in subsection (h) from "(k)" to "(i)";

(3) striking out the last sentence in subsection (j) and inserting in lieu thereof the following: "A registered futures association shall submit to the Commission any change in or addition to its rules and shall not place such rules into effect if, within ten days of receipt by the Commission of such submission, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review for approval such rules. The Commission shall approve such rules, within thirty

days of their receipt if Commission approval is requested hereunder or within thirty days after the Commission determines to review for approval any other rules, unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of the provisions of the Act or the regulations of the Commission.";

(4) adding new subsections (o), (p), and (q) at the end thereof to read as follows:

"(o) The Commission is authorized to require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with the rules approved by the

Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

"(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than ninety days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

"(1) establish training standards and proficiency testing for personnel of members involved in the solicitation of transactions subject to the provisions of this Act, supervisory officials of such personnel, and all individuals for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements. Such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

"(3) establish minimum standards governing the sales practices of its members and persons associated therewith as to transactions subject to the provisions of this Act.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than two years after the date of enactment of the Futures Trading Act of 1982, in the case of any futures association registered on such date, and not later than two years after the date of registration in the case of any other futures association registered under this section.".

LEVERAGE TRANSACTIONS

SEC. 232. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities under such terms and conditions as the Commission shall prescribe by January 31, 1983: Provided, That any such order, rule, or regulation may be made only after notice and opportunity for hearing; Provided further, That the Commission may set different

terms and conditions for such transactions involving different commodities."; and

(2) striking out subsection (d).

TECHNICAL AMENDMENT

SEC. 233. Section 19 of the Commodity Exchange Act (7 U.S.C. 24), as added by section 302 of the Act of November 6, 1978 (Public Law 95–598; 92 Stat. 2673), is redesignated as section 20.

PRIVATE RIGHTS OF ACTION

SEC. 234. The Commodity Exchange Act is amended by adding a new section 21 at the end thereof to read as follows:

"SEC. 21. (a)(1) Any person (other than a contract market) who violates this Act or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this Act shall be liable for actual damages resulting from one or more of the transactions referred to in clauses (A) through (E) of this paragraph and caused by such violation to any other person:

"(A) who received trading advice from such person for a fee;

"(B) who made through such person any contract of sale of any commodity for future delivery (of option on such contract or any commodity) on or subject to the rules of any contract market or other board of

trade; or who deposited with such person money, securities or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

"(C) who purchased or sold or placed an order for the purchase or sale of:

"(i) an option subject to section 4c(d) of this Act;

"(ii) an option subject to section 4c(b) of this Act (other than an option purchased or sold on a contract market or other board of trade);

"(iii) a contract subject to section 19 of this Act;

"(iv) an interest or participation in a commodity pool; or

"(D) who purchased or sold a contract referred to in clause (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

"(2) The rights of action authorized by this subsection and by section 14 of this Act shall be the exclusive remedies under this Act available to any person that sustains loss as a result of any alleged violation of this Act. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon the forum for resolving claims under this section, including arbitration.

"(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of the designation of such contract market under section 5 of this Act or any amendment to such bylaw, rule, regulation or resolution, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of its license or any amendment to such bylaw, rule, regulation or resolution, or (C) any contract market, clearing organization of a contract market or licensed board of trade that in enforcing any such bylaw, rule, regulation or resolution violates this Act or any Commission rule, regulation or order, shall be liable for actual damages sustained by a person that engaged in transactions on such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transactions and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations or resolutions.

"(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violates this Act or any Commission rule, regulation or order shall be liable for actual damages sustained by a person that engaged in transactions specified in subsection (a) of this section to the extent of such person's actual losses resulting from such

transactions caused by such failure to enforce or enforcement of such bylaw or rule.

"(3) Any individual who, in the capacity as an officer, director, Governor, committee member or employee of a contract market, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces or procures any failure by such contract market, clearing organization, or registered futures association to enforce (or any violation of the Act in enforcing) any bylaw, rule, regulation or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person that engaged in transactions on, or subject to the rules of, such contract market or, in the case of an officer, director, Governor, committee member or employee of a registered futures association, transactions specified in subsection (a) of this section, in either case to the extent of such person's actual losses resulting from such transactions caused by such failure or violation.

"(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, Governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

"(5) The rights of action authorized by this subsection shall be the exclusive remedy under this Act available to any person that sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, Governor, committee member or employee to enforce any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action that is alleged to have violated this Act, or any Commission rule, regulation or order.

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.".

SEC. 234. The provisions of section 20 of the Futures Trading Act of 1982 shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982: Provided, That the enactment of this section or section 20 of the Futures Trading Act of 1982 does not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.

SPECIAL STUDY OF THE COMMODITY FUTURES INDUSTRY

SEC. 236. The Commodity Exchange Act is amended by adding a new section 22 at the end thereof as follows:

"Sec. 22. (a) The Commission shall organize and lead, with the assistance of the Securities and Exchange Commission, the Federal Reserve, and the Department of the Treasury, a study and investigation of the structure, participation, uses and effects of trading of futures and related instruments, such as options, on the economy. Among those areas to be studied are (i) the number, types, and characteristics of futures market speculators, arbitrageurs, and hedgers, the purposes for which these participants utilize futures markets, and the financial resources devoted to each of these activities; (ii) the impact of futures market speculation on the accuracy, liquidity, and stability of cash and futures prices and the conditions under which speculation may have adverse effects on these objectives, particularly with respect to the increased volume of financial futures and other nontraditional futures; (iii) the consequences that present and anticipated volumes of trading in futures have, if any, on formation of real capital in the economy, particularly that of a long-term nature, the structure of liquidity in credit markets, interest rates and inflation; and (iv) the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any activity which is found likely to have a harmful effect on national economic goals. The report of this study shall be transmitted to Congress not later than September 30, 1984, and shall include an assessment of the impacts of these

activities and recommendations for any legislative and regulatory changes. There are authorized to be appropriated such funds as may be necessary to carry out the study.

"(b) For the period beginning with the date of enactment of the Futures Trading Act of 1982 and ending September 30, 1984, all stock index futures contracts approved by the Commission either prior or subsequent to the date of enactment of the Futures Trading Act of 1982 shall be subject to a pilot program for such contracts to be established by the Commission by rule, regulation or order. Such pilot program shall, at a minimum, include close monitoring by the Commission of the contracts, including the assessment of the impact if any of such contracts on the markets in the underlying securities and the effect if any of the contracts on the capital formation process. Not later than 120 days following the expiration of the pilot program, the Commission shall report to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the United States Senate its findings and conclusions with respect to the economic purposes being served by the contracts and any effect of such contracts on underlying markets in securities or capital formation. If such report concludes that the adverse effects on the underlying markets in securities or capital formation resulting from trading in the stock index futures contracts outweigh any benefits provided

by the contracts' hedging or risk-management function, the Commission shall include in the report its plans for the orderly withdrawal of approval for all stock index futures contracts.".

NATIONAL FUTURES ASSOCIATION STUDY AND TRANSACTION FEES

SEC. 237. Section 26 of the Futures Trading Act of 1978 (92 Stat. 877) is amended by—

(1) redesignating the text of existing section 26 as subsection (a); and

(2) adding at the end thereof the following new subsections:

"(b) The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association during the period beginning January 1, 1983 and ending December 31, 1984. The report shall be submitted not later than March 1, 1985. The report shall include (but not be limited to) the following—

"(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17(p) and (q) of this Act and the effectiveness of the operation of such program;

"(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

"(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

"(4) problem areas, if any, encountered by the Association;

"(5) the nature of the working relationship between the Association and the Commission;

"(6) an assessment of the actual and projected efficiences the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

"(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

"(c) Notwithstanding any provision of this Act or other law, no user fee, user tax, transacton tax or transaction fee on or involving a contract for the purchase or sale of a commodity for future delivery, commodity option traded on a contract market, other option pursuant to 4c(d) of this Act, or

leverage contract pursuant to section 19 of this Act, shall be recommended pursuant to this section or implemented pursuant to any law until after the end of the session in which the Commission has submitted to Congress the study described in subsection (b) of this section. If the Commission should recommend at any time thereafter the imposition of a user fee, user tax, transaction fee, or transaction tax, such recommendation at a minimum shall be accompanied by data and studies measuring the relative benefit to commodity professionals as well as to the general public of the functions of the nation's commodity markets and of Federal commodity regulation, and the effect of the proposed fee or tax on United States contract market liquidity.

"(d) Nothing in this section shall limit the ability of the Commission to continue to charge appropriate fees for services currently rendered by the Commission in conjunction with its registration, reparations, adjudication, or informational services and activities.".

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HOUSE COMMITTEE ON AGRICULTURE
SUMMARY OF H.R. 5447
FUTURES TRADING ACT OF 1982
AS REPORTED BY THE SUBCOMMITTEE ON CONSERVATION, CREDIT, AND RURAL DEVELOPMENT

On April 1, 1982, the Subcommittee on Conservation, Credit, and Rural Development reported H.R. 5447, with an amendment in the nature of a substitute, to the Committee on Agriculture. The provisions of H.R. 5447, as reported by the Subcommittee, are as follows:

TITLE I -- JURISDICTION
(CFTC/SEC Accord on Jurisdiction)

Sec. 101. Futures and options on futures contracts - General. -- Continues CFTC exclusive jurisdiction over commodity futures contracts (including options on futures) except as provided below. This includes futures and options on futures involving exempted securities (such as Treasury bills, notes and bonds) but not municipal securities.

Prohibits futures (or options on futures) on individual corporate bonds or securities, or municipal securities. (Note: No such futures are presently traded, and none would be permitted until the appropriate allocation of regulatory authority is determined.)

Sec. 101, 102. Options on commodities. -- Continues CFTC exclusive jurisdiction over options on commodities but provides that there would be no CFTC jurisdiction over options on securities including any group or index thereon or interest therein. If the amendments proposed in the CFTC/SEC accord to the securities laws are accepted, the term "security" for this purpose would include any note, stock, bond, debenture (including government bonds and debentures), and foreign currency. Also, specifically provides that nothing in the Act applies to options on foreign currency traded on a national securities exchange. (Note: The effect of the proposal is to permit trading of options on foreign currency on both commodity exchanges and stock exchanges.)

Stock index futures. — Continues CFTC exclusive jurisdiction over futures contracts (and options on such contracts) on a group or index of securities (or any interest therein or based on the value thereof). Sets forth specific standards applicable to such contracts which must be met before designation of a board of trade as a contract market in such contracts:

-- settlement must be by cash or by means other than a security (except an exempted security);
-- trading shall not be readily susceptible to price manipulation;
-- index must be on a broad based group of securities of unaffiliated issuers.

Provides for public comment and SEC consultation on such contract applications. If the SEC objects to designation, provides for SEC oral hearing before CFTC, and upon CFTC designation over SEC objection, gives SEC the right of judicial review.

Sec. 103. Commodity pools. -- Makes explicit that the Act does not affect the applicability of the pertinent provisions of the Federal securities laws of 1933 and 1934 governing the issuance, offer, purchase or sale of securities of a commodity pool. (Note: In their joint explanatory statement, the SEC and CFTC indicated that this provision "would not affect the exclusive jurisdiction granted by the Commodity Exchange Act with respect to state regulation.")

Sec. 104. Sharing information with contract markets and other self-regulatory organizations. -- Broadens section 8a(6) of the Act authorizing disclosure by the CFTC to contract markets of information concerning any transaction or market operation that may be disruptive so as (1) to authorize disclosure to a registered futures association or to a self-regulatory organization recognized under Federal securities laws (such as the NASD) as well as to contract markets, and (2) to authorize disclosure of any information "necessary or appropriate to effectuate the purposes" of the Act. Restricts disclosure of such information in turn to a self-regulatory action or proceeding.

TITLE II -- MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

Sec. 201. Definition of commodity trading advisor; technical amendment. -- (a) Amends the definition of a commodity trading advisor in section 2(a) so that it would apply to persons who for compensation provide advice on trading in commodity options and leverage contracts as well as on futures contracts.

Extends the current exclusions from the definition of a commodity trading advisor to cover employees of banks or trust companies, the electronic media, and trustees of certain pension plans subject to the Employee Retirement Income Security Act of 1974 if the furnishing of trading advice by such persons is solely incidental to the conduct of their business or profession. Also excludes from the definition any person who gives advice or issues reports or analyses only with respect to cash commodities or their value. However, the CFTC may include any person providing advice or analyses on commodities within the definition of a commodity trading advisor as necessary to effectuate the provisions of the Act.

(b) In a technical amendment, repeals revolving door provision contained in section 2(a)(7)(B), which generally prohibits any former Commissioner or employee classified as GS-16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character from making any appearance before or communication to the CFTC for a period of one year after that individual leaves the CFTC. Subsequently enacted government-wide ethics legislation, the Ethics in Government Act of 1978 (18 U.S.C. 207(c)], makes comparable restrictions applicable to former Commissioners and most Senior Executive Service employees.

Sec. 202. Legislative findings. -- Amends findings in section 3 to apply them to commodity options transactions as well as to futures contracts. The effect is to state that these have an impact on tne national economy and interstate commerce.

The record is not clear as to Subcommittee action on the industry proposal to delete findings that transactions and prices of commodities on boards of trade are susceptible to speculation, manipulation, and control which frequently cause sudden or unreasonable detrimental price fluctuations constituting a burden on interstate commerce, and render regulation imperative for protection of such commerce and the public interest.

Sec. 203. Unlawful futures trading; foreign futures. -- Amends section 4 of the Act to combine and simplify certain provisions now contained in sections 4 and 4h(1) of the Act which generally require all transactions involving commodity futures contracts in the United States to be executed on designated contract markets through members of those markets.

Expressly authorizes CFTC to promulgate regulations relating to fraud, minimum financial standards, disclosure of risk and reporting requirements, keeping of books and records, safeguarding of customer funds, and registration by any person located in the United States who is engaged in the offer and sale of foreign futures.

The CFTC may adopt different rules for different foreign boards of trade and markets but is precluded from adopting rules which govern foreign exchanges or clearinghouses or requiring approval of contracts, rules or actions of foreign markets and clearinghouses.

Sec. 204. Speculative limits. -- Amends section 4a to specifically authorize the Commission to establish different speculative limits that may apply to different number of days remaining in the final month of trading of a contract.

Authorizes CFTC to establish speculative limits by rulemaking, as well as by order, after notice and hearing. Expressly permits contract markets and other licensed exchanges to set speculative limits for futures or option transactions. If the CFTC has established such limits, exchange limits may not be higher except with CFTC approval. Makes a violation of speculative limits set by an exchange a violation of the Act if exchange limit has been approved by CFTC. Makes the criminal provisions of the Act (section 9(c)) applicable to those who knowingly violate such limits.

Prohibits the Commission from applying speculative limits on bona fide hedging transactions by producers, purchasers, sellers, middlemen and users of commodities. Requires the CFTC to report to the Agriculture Committees of Congress in its annual report on the results of monitoring trading activities of largehedgers and on any unwarranted price pressures by them.

Sec. 205. Agricultural options. -- Amends section 4c of the Act to repeal the ban on the trading of options on agricultural commodities (that is, commodities specifically enumerated in section 2(a)(1) of the Act prior to 1974) and give the CFTC authority to approve trading of such options under a pilot program for a period up to 3 years under which no more than one such commodity may be authorized on any contract market. Beginning 3 years after authorization of the pilot program, the CFTC may authorize trading in options without regard to restrictions in the pilot program under the same conditions as apply before the Commission may approve trading in options in other commodities.

Sec. 206. Registration; technical amendment. -- Makes a technical amendment to section 4f(1) to delete requirement for suspension or revocation of registration only after notice and hearing in view of amendment to section 8a to provide for suspension of registration without a hearing for certain enumerated conditions, such as conviction for certain felonies.

Sec. 207. Misrepresentation; technical amendment. -- Amends section 4h to delete language duplicative of language added by the bill to section 4 regarding the requirement that the purchase and sale of a commodity for future delivery must be by or through a member of a contract market.

Amends misrepresentation prohibition to cover all registrants and agents of any registrant.

Sec. 208. Recordkeeping conformed to current system; large trader reports. -- Clarifies provision in section 4i that even if CFTC eliminates routine reporting requirements for large traders, persons whose trades or positions in any cash commodity or future equal or exceed levels set by CFTC must keep books and records relating to futures and related cash transactions.

Sec. 209. Registration, associated person status. - Agents. -- Amends section 4k of the Act to require "agents" to register with the CFTC as associated persons of futures commission merchants, thereby making futures commission merchants responsible for the conduct of their agents.

Associated persons of commodity pool operators and commodity trading advisors. -- Requires registration of principals, employees and consultants of commodity pool operators and commodity trading advisors as associated persons of such entities when such persons are involved in solicitation or the supervision of persons so engaged.

Term of registration. -- Authorizes the CFTC to prescribe the effective period of the registration of associated persons of futures commission merchants, commodity pool operators, and commodity trading advisors.

Responsibility for associated person of registrants. -- Prohibits a registrant from permitting a person to be an associated person of the registrant if he knows or should have known that the person is subject to a statutory disqualification unless the registrant notifies the Commission of these facts and the Commission determines that the person should be registered or temporarily licensed.

Sec. 210. Conforming amendment. -- Deletes section 4n(5) and (6) which contains provisions relating to denial, revocation or suspension of registration of any person as a commodity trading advisor or commodity pool operator. These provisions have been revised and incorporated in section 8a of the Act.

Sec. 211. Extension of antifraud provision. -- Extends the antifraud provisions of section 4o that now apply to commodity trading advisors and commodity pool operators to cover as well associated persons of commodity trading advisors and commodity pool operators.

Sec. 212. Extension of authority regarding proficiency examination. -- Extends CFTC authority contained in section 4p to require proficiency or fitness testing to all persons who are required to register with CFTC.

Sec. 213. Registration information to the states. -- Adds a new section 4q to require the CFTC to provide registration information on any registrant upon reasonable request made by any department or agency of any state or any political subdivision thereof and to provide such information without request whenever the CFTC determines that it may be helpful to them.

Sec. 214. Designation of contract markets. -- Amends section 5(g) to require the CFTC in determining whether designation of a board of trade as a contract market for any commodity would be contrary to the public interest, to consider the extent to which trading in the commodity is likely to divert investment capital away from the capital formation process, and cause price manipulation and price destabilization in that commodity.

Sec. 215. Contract market rules. -- Amends section 5a to require contract markets to enforce all bylaws, rules, regulations and resolutions which must be enforced pursuant to any CFTC rule, regulation, or order, thereby codifying CFTC regulation 1.53 requiring enforcement of bylaws, rules, etc., in effect as of July 18, 1975, which have not been disapproved by the CFTC.

Requires submission for prior CFTC approval of rules that relate to contract terms and conditions; requires submission of all other rules but permits implementation of those rule proposals after 10 days' notice to the CFTC unless the Commission itself determines that the rule merits review and so notifies the CFTC or the contract market requests review.

Provides that if the CFTC has not approved a proposed rule or instituted disapproval proceedings within 180 days after the filing of a proposed rule, or if disapproval proceedings have been instituted within 180 days but have not been completed within 1 year of filing, a contract market may put such rule into effect. Such a rule is not considered approved by the CFTC.

Provides for publication in the Federal Register of a notice of economically significant rule proposals in lieu of the full text thereof at least 30 days before approving such rules.

Continues the CFTC's authority to disapprove any rule (except margin levels) after implementation. Requires the CFTC in disapproving a rule to specify the sections of the Act or regulations that the rule would violate.

Eliminates the separate category of operational and administrative rules.

Amendments do not affect the contract markets' authority to take emergency action or to set levels of margin.

Sec. 216, 217. Arbitration. -- Amends sections 5a(11) and 17(b)(10) to eliminate the current $15,000 ceiling on claims for which arbitration must be provided through contract markets and registered futures associations; retains existing right of customer to elect arbitration; eliminates the provision providing for no compulsory payment except as agreed to between the parties; and broadens the term "customer" to include futures commission merchants who are not members of the contract market.

Sec. 218. Designation procedures. -- Amends section 6 to specify that the CFTC has 1 year to approve new contract applications or to deny the application and specify the grounds for denial. The running of the 1-year period is stayed from the time the CFTC informs the board of trade that its application is materially incomplete until a completed application is submitted. After the application is submitted in completed form, the CFTC has not less than 60 days to approve or deny the application.

Sec. 219. Appeals. -- Amends section 6(b) to clarify the law governing appellate venue for review of CFTC orders by providing that in the case of an order denying registration, the petitioner may obtain review in the United States court of appeals for the circuit in which the petitioner's principal place of business listed on its application for registration is located.

Sec. 220. Restraining orders. -- Amends section 6c to change the current prohibition on obtaining *ex parte* orders to restrain or enjoin violations of the Act to permit the CFTC to obtain *ex parte* orders from courts of competent jurisdiction for the limited purposes of preventing the destruction of evidence or the dissipation of assets or obtaining access to books and records.

Sec. 221. Confidentiality provisions; disclosure. -- Amends section 8 to require the CFTC to provide by regulation procedures by which the Commission would notify a person, who had submitted information to the Commission, within five days of receipt of a request for disclosure of such information that such a request has been made under the Freedom of Information Act, and permit the submitter to provide the Commission written argument regarding the request for disclosure. The Commission would not be required to notify a submitter of the receipt of a request if the Commission determines that the request for disclosure should be denied; the disclosure is pursuant to law or Commission rule which requires disclosure of specific records in such a manner as to leave no discretion on the issue; or the information has been published or otherwise made available to the public.

Exempts from disclosure confidential information and proprietary information that would not customarily be disclosed to the public, except that the CFTC may release such information, if disclosure is not otherwise prohibited, as is necessary to obtain public input.

Extends authorized disclosure of confidential information to permit its use in connection with certain judicial receivership or bankruptcy proceedings.

Requires the CFTC to give notice, upon receipt of a subpoena or summons, to those registrants, contract markets, registered futures associations and other persons whose records or documents are being requested and disclose such information only after 14 days have expired from the date of mailing of the subpoena or summons.

Clarifies that information may be disclosed to any appropriate Federal department or agency, including independent agencies.

Also extends current authority under section 8(e) of the Act allowing information to be furnished to Congress and other Federal agencies to permit the CFTC to provide State and foreign officials with information so long as such information is used solely for bona fide law enforcement purposes.

Sec. 222. Registration authority; temporary license. -- Amends section 8a(1) to authorize the Commission to grant a six-month provisional license to applicants for registration in order to permit such applicants to begin work or to conduct business prior to completion of the fitness checks required for registration. Specifically, authorizes the Commission to register associated persons of commodity trading advisors and commodity pool operators.

Sec. 223. Statutory disqualification from registration. -- Amends section 8a(2) and (3) to establish statutory disqualifications from registration.

Authorizes the CFTC to deny, condition, suspend, or restrict registration without a hearing or revoke registration after a hearing if any of 8 enumerated conditions are present, such as suspension or revocation of prior registration, a court order barring specified conduct involving securities or commodities, or a recent conviction for such felonies as bribery or bankruptcy fraud.

Authorizes the CFTC to deny or condition registration after opportunity for hearing if any of 14 other enumerated conditions are present, such as a previous violation of the Act, Federal securities laws or similar State or foreign laws, conviction of certain commodity or securities related offenses, and failure to reasonably supervise another person. Appeals are permitted from decisions to suspend, revoke or place restrictions on registrations.

Provides for the performance by any person of any portion of CFTC's registration functions subject to the Act.

Sec. 224. Emergency powers; judicial review. -- Amends section 8a(9) to specifically include in the CFTC's emergency powers the authority to set temporary emergency margin levels on futures contracts and the fixing of position limits that may apply to positions acquired prior to the CFTC's action.

Authorizes judicial review of emergency actions by the CFTC only in United States courts of appeal. Review is to be based upon the information available to the agency at the time of action and the reviewing court may not enter a stay of the agency action or order of mandamus unless, after notice and hearing before a panel, it determines the agency action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

Sec. 225. Certain prohibited transactions. -- Expands current section 9(a) of the Act to make it a felony for any person registered or required to be registered under the Act, or any employee or agent thereof, to embezzle or steal customer assets. Currently, this provision applies only to futures commission merchants and their employees.

Requires the CFTC to suspend the registration of any person convicted of a felony under section 9(a) and deny reregistration for a period of at least 5 years unless the CFTC determines that such action is not required in the public interest.

Requires the CFTC to take similar action to suspend the registration and deny reregistration of any person that is convicted of a felony under section 9(b) (relating to convictions for manipulation of prices or cornering of markets and violations of sections 4, 4b, 4c(b)-4c(e), 4h, 4o(1), and 19) or convicted under section 9(c) of a knowing violation of section 4(a). The CFTC must also bar any such person from using any market regulated by the Commission for at least a 5-year period.

With respect to the prohibition on Commission members and employees engaging in certain transactions, extends to leverage transactions (1) the prohibition in section 9(d) of the Act on their engaging in commodity futures or options transactions or investment transactions in actual commodities and (2) the prohibition in section 9(e) on their imparting nonpublic information to assist another in transactions in commodity futures and options and actual commodities. Adds to those existing transactions exempt from the prohibition in section 9(d), transactions by independent trustees of trusts established by Commission members or employees to engage in hedging transactions in connection with permitted farming or ranching operations and to lease oil, gas, or mineral rights owned by a Commissioner or employee; and authorizes CFTC members and employees to invest in government securities and other financial instruments if the instrument is not regulated by the CFTC and nonpublic information is not used in making the investment decision.

Sec. 226. Reauthorization. -- Amends section 12 to extend the authorization for appropriations 4 years through September 30, 1986.

Sec. 227. Off-exchange jurisdiction; role of States. -- Notwithstanding the Act's exclusive jurisdiction and preemption, amends section 12 to permit any Federal or State law to be applied to activities of persons who are required to but who do not obtain registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the Act's regulatory structure such as off-exchange futures or other commodity investments. This provision does not apply to exchange-traded futures, authorized commodity options, and regulated leverage transactions which would remain subject to exclusive CFTC regulation. In addition, the offer and sale of foreign futures contracts are exempt from State jurisdiction, except as otherwise specified by the Commission.

Sec. 228. Aiding and abetting; controlling person. -- Adds a new section 13(b) providing that a person who directly or indirectly controls another person (or entity) which violates the Act or regulations may be held liable for such violation in any action brought by the CFTC to the same extent as the controlled person. The Commission has the burden of proving that the controlling person did not act in good faith and induced the act constituting the violation.

Sec. 229. Reparations procedure. -- Amends section 14 to limit reparations claims to cases where respondent is registered with the Commission; eliminates statutorily-required procedures, including the requirement that claims over $5,000 must be heard by an Administrative Law Judge; authorizes the CFTC to issue rules, regulations and orders for the administration of the reparations program; and extends the automatic prohibition on trading, upon failure to pay a final reparations award, to any party not just a registrant.

Sec. 230. Technical amendment. -- Makes a technical amendment to section 16(d) to prohibit disclosure in reports of individual market positions as well as business transactions, except as otherwise authorized under the Act.

Sec. 231. Registered futures association. -- Amends section 17 to--

Specifically authorize a registered futures association to collect the fingerprints of its members, submit those fingerprints to the FBI, and receive the results of the FBI analysis.

Require a registered futures association to submit proposed rules or amendments to the CFTC for review. Rules may go into effect within 10 days of receipt unless CFTC or the association requests review. CFTC must approve rules within 30 days of receipt unless it notifies the association of its inability to complete review in that period. CFTC must approve rules if consistent with section 17 and not in violation of the Act or regulations, and disapprove rules, after opportunity for hearing, if the rules are inconsistent with section 17 or violate the Act or regulations.

Authorize the CFTC to require a registered futures association to perform any portion of CFTC's registration functions under the Act, thereby enabling the processing of registration applications to be performed by the National Futures Association.

Require each registered futures association to adopt and submit for Commission approval rules that (1) establish training standards and proficiency testing for personnel of members involved in the solicitation of transactions subject to the Act, their supervisory officials and all individuals for which it has registration responsibilities, (2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission, (3) establish minimum standards governing the sales practices of its members and persons associated therewith on transactions subject to the Act, and (4) establish a program to audit and enforce the foregoing requirements.

Require each registered futures association to develop a comprehensive program that fully implements the rules approved by the Commission within a two-year period.

Sec. 232. Leverage transactions. -- Amends section 19 to require the CFTC to regulate leverage transactions involving silver and gold bullion and coins or any other commodities under such terms and conditions as the Commission shall prescribe by January 31, 1983. The CFTC may set different terms and conditions for such transactions involving different commodities.

Deletes provisions stating that any leverage transaction determined by the CFTC to be a futures contract shall be regulated as a futures contract which must be traded on an exchange.

Sec. 233. Technical amendment. -- Designates section 19 of the Act, which relates to bankruptcy issues and contains the same section designation as the section relating to leverage contracts, as section 20.

Sec. 234. Private rights of action. -- Adds a new section to the Act to provide specific authority for private rights of action.

Provides that any person (other than a contract market) who violates the Act or who willfully aids, abets, or induces the commission of a violation shall be liable for actual damages caused by the violation. The violation must have arisen from a transaction in which the injured person (A) received trading advice from such person for a fee, (B) made through such person any contract of sale of any commodity for future delivery (or option) on a contract market, or deposited with such person property (or incurred debt) in connection with any order to make such contract, (C) purchased or sold or placed an order for the purchase or sale of a dealer option, leverage contract or interest in a commodity pool, or (D) purchased or sold a futures or options contract on an exchange if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

Also provides liability for actual damages in the case of (A) a contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of the designation of such contract market, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of its license, (C) a registered futures association that fails to enforce any bylaw or rule that is required under the Act, or (D) any contract market, clearing organization of a contract market, licensed board of trade, or registered futures association that in enforcing any such bylaw, rule, regulation or resolution violates this Act or any Commission rule, regulation or order. Authorizes a cause of action in such cases by a person that engaged in transactions on such contract market or licensed board of trade to the extent of the actual losses that resulted from such transactions and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations or resolutions.

Authorizes a cause of action for actual damages against any individual who, in the capacity as an officer, director, governor, committee member or employee of a contract market, licensed board of trade, or a registered futures association willfully aids, abets or induces a failure to enforce any bylaw, rule, regulation or resolution referred to above by a person that engaged in transactions on, or subject to the rules of, a contract market or licensed board of trade.

Restricts causes of action by a person seeking to enforce liability against the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee to cases where they acted in bad faith in failing to take action or the failure of action caused the loss.

Makes the rights of action authorized by this subsection the exclusive remedy under this Act available to any person that sustains a loss except that the remedy of reparations would be available in appropriate cases.

Confers on the United States district courts exclusive jurisdiction of private causes of action brought under the Act. Any such action must be brought within two years after the date the cause of action accrued.

Makes the private cause of action provision effective with respect to causes of action accruing beginning with the date of enactment of the Futures Trading Act of 1982. Enactment of the private cause of action provision does not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.

Sec. 236. Special study of the commodity futures industry; pilot stock index program. -- (a) Adds a new section 22 to the Act requiring the CFTC to organize and lead, with the assistance of the SEC, the Federal Reserve, and the Treasury, a study and investigation of the structure, participation, uses and effects of trading of futures and options on the economy. Among those areas to be studied are (1) the purposes for which participants utilize futures markets, and the financial resources devoted to each of these activities, (2) the impact of futures market speculation on the liquidity and stability of cash and futures prices, particularly on the increased volume of financial futures and other nontraditional futures, (3) the consequences that trading in futures have, if any, on formation of real capital in the economy, the structure of liquidity in credit markets, interest rates and inflation, and (4) the sufficiency of the public policy tools available to the CFTC or other agencies to limit or curtail any activity found likely to have a harmful effect on national economic goals.

Requires a report to Congress not later than September 30, 1984, including an assessment of the impacts of these activities and recommendations for any legislative and regulatory changes.

Authorizes appropriation of such funds necessary for the study.

(b) Requires all stock index futures contracts to be subject to a two-year pilot program. Such pilot program to include an assessment of the impact if any of such contracts on the markets in the underlying securities and the effect, if any, of the contracts on the capital formation process.

Requires a report within 4 months after expiration of the pilot program to the Committees on Agriculture of the Congress on the economic purposes being served by the contracts and any effect of such contracts on underlying markets in securities or capital formation. If such report concludes that the adverse effects resulting from stock index futures contracts outweigh any benefits, the Commission must include in the report plans for the orderly withdrawal of approval for all stock index futures contracts.

Sec. 237. National Futures Association study and transaction fees. -- Amends section 26 of the Futures Trading Act of 1978 to require the CFTC to submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association during the two-year period beginning January 1, 1983.

Provides for the report to include (1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission and the effectiveness of the operation of such program, (2) the cost savings to the Federal Government, if any, resulting from operations of the National Futures Association, (3) the costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility, (4) problem areas, if any, encountered by the Association, (5) the nature of the working relationship between the Association and the Commission, (6) the capabilities of the Commission to turn its attention to more immediate problems of regulation as a result of the activities of the Association.

Prohibits any user fee or transaction fee involving a contract for the purchase or sale of a commodity for future delivery, option authorized under the Act, or leverage contract to be recommended or implemented until after the end of the session in which the Commission has submitted to Congress the study. If the CFTC should recommend at any time thereafter the imposition of a user fee or transaction fee, requires such recommendation to be accompanied by data on the effect of the proposed fee or tax on United States contract market liquidity.

Permits the CFTC to charge fees for services currently rendered by the Commission in conjunction with registration, reparations, adjudication, or informational services and activities.

Amendment offered by Mr. Jeffords

Aiding and Abetting - Controlling Person

Sec. 228(b) of the Committee Print is amended by:

striking lines 10-18;

inserting new section (b) to read as follows:

Controlling Person - Section 13(b)

"Any person who, directly or indirectly, controls any person liable under any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation."

Coleman

Section 201 of HR 5447 is amended --

(1) by adding a new subsection (3) to read as follows:

(3) by inserting immediately after the sentence defining the term "futures commission merchant" a new sentence to read as follows:

> "The term 'introducing broker' shall mean any person, except any individual who elects to be and is registered as an associated person of a futures commission merchant, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom."

Section 204 of HR 5447 is amended --

(a) by redesignating subsection (5) as subsection (6) and,

(b) by adding a new subsection (5) to read as follows:

(e) by inserting the words ", introducing broker" after the term "futures commission merchant" in the first sentence of paragraph (4).

Section 206 of HR 5447 is amended --

(1) by adding a new subsection (3) to read as follows:

(3) by inserting the words ", introducing broker" after the term "futures commission merchant" the first time it appears in the first sentence of subparagraph (1);

(2) by adding a new subsection (4) to read as follows:

(4) by inserting the words "and introducing brokers" after the words "of applications of futures commission merchants" and before the comma thereafter in the first sentence of subparagraph (1);

(3) by inserting in subsection (1) the words "engaged in soliciting or accepting on behalf of such applicants any orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any board of trade" after the word "agents" and before the closed quotation mark.

(4) by adding a new subsection (5) to read as follows:

(5) by inserting the words "or as introducing broker" after the term "futures commission merchant" in subparagraph (2).

Section 209 of HR 5447 is amended —

(a) by redesignating the title of that Section as follows:

"Registration of Associated Persons and Introducing Brokers",

(b) by amending the section as follows:

(1) Add the words "introducing broker" after the word "future commission merchant" each time they appear.

(2) Strike the words "or agent" after the word "employee" in the first sentence of 4 K(1).

(3) Add the word "or" before the word "employee" in the first sentence of 4 K(1).

HR 5447 is amended by adding a new section ____ to read as follows:

Sec. ___. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended --

(a) by inserting ", introducing broker" after "futures commission merchant" in paragraph (1); and

(b) by inserting ", introducing brokers" after "Floor brokers" in paragraph (3).

HR 5447 is amended by adding a new section ___ to read as follows:

Sec. ___. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended --

(a) by inserting the words "or introducing broker" after the term "futures commission merchant" in the introductory clause of section 4d;

(b) by inserting the words "or introducing broker" after the term "futures commission merchant" in subparagraph (1); and

(c) by inserting the words "if a futures commission merchant" after the words "such person shall," in subparagraph (2).

Section 223 of HR 5477 is amended --

(a) by adding a new subsection (7) to read as follows:

(7) amending paragraph (1) by inserting the words "or introducing brokers," after the words "futures commission merchants."

(b) by amending subsection (1) by inserting the words "introducing broker," after the words "futures commission merchant," every time they appear.

(c) by adding the following language to subsection (2): "and inserting the words 'introducing broker,' after the words 'a futures commission merchant,' into redesignated paragraph (4)."

(d) by amending subsection (3) by inserting the words "or of any introducing broker", after the words "futures commission merchant".

For Mr. Richmond

The Need for Report Language on the Meaning of the Term "Foreign Currency"

Section 4 of H.R. 5447 (P.4, lines 23-25 -- P.5, lines 1-3) amends Section 4c of the Commodity Exchange Act by adding a new subsection (f) to read as follows:

> (f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.

The proposed amendment was adopted to implement that portion of the Johnson/Shad jurisdictional accord which recognizes the jurisdiction of the SEC over options on foreign currencies.

The amendment fails to define the term "foreign currency" and at least one witness expressed concern that "foreign currency" could be interpreted to include gold coins such as South African Krugerrands. However, it should be clear that gold coins are not comparable to other foreign currencies. Such coins are not used in every day commerce as, for example, the British Pound is used. Equally important, their true value derives from their gold content and not from the minimal currency value which may be attributed to them. Gold coins, therefore, should be considered as nothing more than another form of gold bullion subject to the exclusive jurisdiction of the CFTC.

Because it is unlikely that anyone would attempt to interpret the term "foreign currency" to include gold coins, an amendment to proposed section 4c(f) is not necessary. However, report language to ensure that there is no misunderstanding does seem advisable.

Proposed language, which was agreed to by the Senate Committee on Agriculture, Nutrition and Forestry last evening, is attached. When Chairman Helms asked his opinion of the proposed language, Chairman Johnson said he had "no disagreement" with it.

Jeffords

REGULATION OF COMMODITY POOLS

PROPOSED COMMITTEE REPORT LANGUAGE TO ACCOMPANY H.R. 5447

By amending Section 4m of the Commodity Exchange Act the Committee intends to clarify and limit the extent to which Federal securities laws apply to the formation and operation of commodity pools which trade in futures contracts and options on futures contracts. There has been considerable confusion whether the exclusive jurisdiction of the CFTC over accounts, agreement and transactions involving futures contracts vests the CFTC with the sole responsibility for protection of persons who participate in the futures markets through a pool. The Committee recognizes that generally the interest in commodity pools are securities requiring registration under applicable federal securities laws unless exempted by some provision or rule thereunder. Therefore, the amendment is intended to make clear that the investor protections of the Securities Act of 1933 and the Securities Exchange Act of 1934 will be available to commodity pool participants.

However, the Committee also recognizes the existence of a comprehensive regulatory scheme which has been adopted by the CFTC and governs the activities of all commodity pool operators. Therefore, the amendment is not intended to impair the exclusive jurisdiction of the CFTC over the operations of a commodity pool in connection with its trading of futures contracts and options on futures contracts traded on designated contract markets.

Accordingly, the Committee's amendment specifically requires registration with the SEC of interests in commodity pools, unless an exemption under federal securities laws is available, and application of the protections provided to investors under the Securities Act of 1933 or the Securities Exchange Act of 1934; and at the same time the amendment continues the CFTC's exclusive regulatory authority over all aspects of the operation of commodity pools, including, but not limited to, such matters as the form or organization, fees charged and the trading conduct of a particular commodity pool. Registration or regulation of commodity pools under any other federal securities statutes, or under any State securities or "Blue Sky" laws is specifically preempted.

Report Language to H. R. 5447

Offered by Congressman Huckaby

Several Members of the Committee have expressed concern about the delivery points specified in domestic agricultural contracts. While many contracts specify a Chicago delivery point (or a delivery point at another location), in actual practice the agricultural commodity is delivered, for export, marketing or processing, to a location different from the one specified in the contract. This acutal practice has resulted in cash discounts over and above the normal "basis" between futures prices and cash prices paid at local warehouses, elevators or similar facilities. Depending on the location of the local facility, these cash discounts have been significant.

The Committee would like for the Commission to review delivery points specified in domestic agricultural contracts, including the "basis" and the variance of the "basis" during a marketing year. The Commission's review should emphasize whether delivery points specified in agricultural commodity contracts should be established at locations where the majority of an agricultural commodity is actually delivered for export, marketing or processing, or the location where delivery of the agricultural commodity is taken by the final purchaser. The Commission's review should consider alternative changes in delivery specifications besides delivery points, as recommended to the Commission in the "Report of the Commodity Futures Trading Commission Advisory Committee on the Economic Role of Contract Markets," dated July 17, 1976. The Committee expects the Commission to report to the Committee its results of this review within one year after the date of enactment of this bill. The Committee also expects the Department of Agriculture to cooperate and assist the Commission, if necessary.

Foley-Jeffords.

REPORT LANGUAGE

[In connection with the discussion of new section 4(b)]

Section 4(b) expressly empowers the Commission to protect the interests of United States residents against fraudulent or other harmful practices by a vendor of foreign futures who is located in the United States, its territories or possessions, but does not authorize the Commission to regulate the internal affairs of a foreign board of trade, such as the terms and conditions of foreign futures created by a foreign exchange.

However, nothing in the provision prevents a foreign board of trade from applying to the Commission for certification that its futures contracts conform with requirements of this Act where, by its terms, the Act establishes minimum requirements for a specifically identified contract. For example, a foreign board of trade may seek certification from the Commission that a futures contract offered by it that is based upon a group or index of American securities meets the minimum requirements specified in subparagraphs (a) through (c) of Section 2(a)(1)(B)(ii) of the Act, without seeking or obtaining designation by the Commission as a contract market. Any such certification is to be conducted under the procedures, and subject to the rights of other persons, set forth in the provision of the Act establishing such minimum requirements. A futures contract based upon a group or index of foreign securities only could be certified by the Commission under such criteria as the Commission may deem appropriate. Upon certification by the Commission, the minimum requirements for such contract will be deemed to have been met, and the offering and sale of the contract in the United States, its territories or possessions will be lawful so long as such activity complies with the regulations of the Commission adopted under section 4(b).

Glickman

AMENDMENT TO CLARIFY SUBCOMMITTEE INTENT ON LEGISLATIVE FINDINGS

On page 11, strike out line 8 and insert in lieu thereof the following:

(4) striking out the fifth and sixth clauses and inserting in lieu thereof the following: "the transactions and prices of commodities on such board of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein.".

NOTE: This change was adopted by the Senate Committee. The fifth and sixth clauses in current law read as follows: "that the transactions and prices of commodities on such board of trade are susceptible to speculation, manipulation, and control, and sudden or unreasonable fluctuations in the prices thereof frequently occur as a result of such speculation, manipulation, or control, which are detrimental to the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, and that such fluctuations in prices are an obstruction to and a burden upon interstate commerce in commodities and the products and byproducts thereof and render regulation imperative for the protection of such commerce and the national public interest therein.".

Glickman

PROPOSED COMMITTEE REPORT LANGUAGE TO ACCOMPANY H.R. 5447 REGARDING LEVERAGE TRANSACTIONS

The Committee amendment, which directs the CFTC to regulate leverage transactions, also repeals the authority previously contained in section 19(d) which the CFTC sought to construe as enabling it to determine that all leverage transactions are futures contracts within the meaning of the Act, tantamount to a ban. The Committee intends for the Commission to regulate leverage transactions, not to ban them. In order to accomplish this the Committee amendment requires the Commission to regulate leverage transactions within 120 days of the effective date of these amendments, and, as a necessary consequence of the mandate, also deletes the Commission's discretionary authority to prohibit certain leverage transactions.

Nothing contained in the Committee amendment is intended to affect the current statutory prohibition against leverage transactions in agricultural commodities contained in section 19(a); it will continue in effect. Moreover, nothing contained in the Committee amendment is intended to affect the authority which the Commission has heretofore used to impose regulatory moratoria on both new entrants into the leverage business and also the commodities traded pursuant to leverage contracts. The Committee does intend, however, for the Commission to proceed immediately in promulgating regulations which will initially govern transactions in all commodities presently being traded pursuant to leverage agreements, which the Committee understands includes such commodities as gold, silver, platinum and copper.

Although the Commission's obligation to regulate leverage transactions would extend to such trading in all commodities other than those agricultural commodities designated in section 19(a), the Committee does not presently anticipate that any existing or new leverage merchant intends to trade such commodities as stock indices, options and so forth. Nevertheless, mindful of the increasing demands upon the Commission's resources, the Committee recognizes that, with respect to certain commodities, it may wish to continue to enforce a regulatory moratorium which would be selectively lifted only after the Commission had carefully considered both whether trading in a particular commodity pursuant to a leverage contract would be consistent with the traditional use and purpose of leverage transactions and whether the Commission could effectively ensure the financial solvency of the transactions or prevent manipulation or fraud. Furthermore, nothing in the Committee amendment is intended to affect the Commission's authority, contained in section 19(c), to set different terms and conditions for leverage transactions involving different commodities.

The Committee also recognizes that because of similar resource considerations the Commission may deem it necessary to lift gradually its current regulatory moratorium on new entrants into the leverage business. However, the Committee intends for the Commission to encourage competition wherever possible, including among leverage merchants, and therefore cautions that any moratorium should be retained only until such time as the Commission or a self-regulatory organization such as the National Futures Association is able to oversee effective regulation of additional leverage firms and or commodities traded pursuant to leverage contracts.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Monday, April 26, 1982

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Meeting: Public Field Hearing, Starkville, Mississippi

Subject: Review of the 1982 wheat, soybean, and feed grain price support program

Bill Nos. None

The Wheat, Soybean, and Feed Grains (Sub) Committee

met in open Session at 9:30 o'clock, in Room W.M. Bost Cooperative Extension Center

The following Members were present:

Mr. Foley
Mr. Bowen
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Stangeland
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Eugene Moos, Subcommittee Staff Director

Witnesses:

1. Mr. Bruce Brumfield, President, Delta Council, Stoneville, Mississippi 38776
2. Mr. James R. Carter, Vice President, Mississippi Farm Bureau, Box 458, Rolling Fork, Mississippi 39159
3. Mr. Leo Harden, First Vice President, Alabama Farm Bureau, Route 1, Banks, Alabama 36005
4. Mr. Jim Monroe, Director of Commodity Programs, Louisiana Farm Bureau, P.O. Box 15361, Baton Rouge, Louisiana 70895
5. Mr. L. A. Davidson, President, Mississippi AAM, 40 Sunset Drive, Indianola, Mississippi 38751
6. Mr. Robert Mashburn, President, Mississippi Soybean Association, Box 105, Bolton, Mississippi 39041
7. Dr. Robert L. Williams, Extension Economist, Mississippi State University, Starkville, Mississippi 39762
8. Dr. Verner G. Hart, Department Head, Agricultural Economics, Box 5187, Mississippi State University, Starkville, Mississippi 39762
9. Mr. Harvey Joe Sanner, Vice President, Arkansas AAM, Des Arc, Arkansas 72040

Statements Filed:

U.S. GOVERNMENT PRINTING OFFICE [illegible]

Monday, April 26, 1982
Wheat, Soybeans, and Feed
  Grains Subcommittee
Public Field Hearing
Starkville, Mississippi
Farm commodity stabilization
  program

Mr. Foley, Chairman of the Subcommittee, called the hearing to order at 9:30 a.m. After a short welcoming address by Dr. James D. McComas, President of Mississippi State University, testimony was taken from 9 witness groups as shown on Page 2 of these minutes. Included in the witness group were representatives of the general farm organizations, the commodity groups and extension economists.

All witnesses discussed the difficult economic circumstances presently facing most farmers in the South, citing specifically the cost/price squeeze Southern soybean producers are facing.

The hearing was adjourned at 1:10 p.m. after all witnesses had been heard and questioned.

Gene Moos

Gene Moos

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 27, 1982

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing

Subject: Review of internal task force report on regulations issued by Packers and Stockyards Administration

Bill Nos. None

The Livestock, Dairy, and Poultry (Sub) Committee

met in open Session at 1:10 pm o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Harkin
Mr. Jones (Tenn.)
Mr. Whitley
Mr. Stenholm
Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hagedorn
Mr. Skeen
Mr. Gunderson
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.

Staff present:

George Palmer, Subcommittee Staff Director
Cristobal Aldrete, Special Counsel
Floyd Gaibler, Minority Consultant
Christine Abram, Staff Assistant

Witnesses:

1. Mr. B. H. Jones, Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture
2. Mr. C. T. Sanders, General Manager, Livestock Marketing Association, Kansas City, Missouri
   Acc. by: Mr. Frank D. Diercks, President
   Mr. Dennis Casey, Associate Manager
   Mr. Dennis R. Braddock, Executive Counsel
   Mr. Ernest Van Hooser, Attorney
   Mr. J. D. Granecome
   Mr. James B. Seabeck
   Mr. Richard L. Nock
   Mr. Bruce J. Johnson
   and others
3. Mr. Paul Sacia, National Farmers Union, Washington, D.C.
4. Mr. Dale Tintsman, Iowa Beef Processors, Dakota City, Nebraska
5. Mr. Glenn Deen, National Cattlemen's Association, Denver, Colorado
6. Mr. David Price, Swift and Co., for American Meat Institute, Washington, D.C.
7. Mr. Charles L. Frazier, National Farmers Organization, Washington, D.C.
8. Mr. Lawrence Van Kuhl, American Stockyards Association, Sioux City, Iowa
9. Mr. Stuart E. Proctor, Jr., American Farm Bureau Federation, Washington, D.C.

Statements Filed:

April 27, 1982
Livestock, Dairy, and Poultry
  Subcommittee
Review of internal task force report on
  regulations issued by Packers and
  Stockyards Administration
No bill

Chairman Harkin called the hearing to order at 10:10 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

Chairman Foley introduced members of the Livestock Marketing Association present at the hearing from the State of Washington.

At 4:14 p.m. the Chair adjourned the hearing, subject to the call of the Chair.

Christine D. Abram

Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, April 27, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Oversight of Department of Agriculture conservation programs

Bill Nos. None

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 9:35 am o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Brown
Mr. Wampler
Mr. Roberts, Kans.
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.

Staff present:

Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Skip Stiles, Legis. Assistant to Mr. Brown
Peggy Pecore, Clerk

Witnesses:

1. Oversight on Soil Conservation Service conservation programs:

   Mr. Richard Siegel, Deputy Assistant Secretary for Natural Resources and Environment, U.S. Department of Agriculture,
   accompanied by: Mr. Cletus Gillman, Deputy Chief of State and Local Operations, Soil Conservation Service, USDA

   Dr. Ralph McCracken, Deputy Chief, Natural Resource Assessment, SCS, USDA

2. Oversight on Agricultural Stabilization and Conservation Service conservation programs:

   Mr. Gordell Brown, Director of Conservation and Environmental Protection Division, ASCS
   accompanied by: Mr. Orin Hanson, Deputy Director, Conservation and Environmental Protection Division, ASCS
   Mr. Gordon Nebeker, Chief of Evaluation and Analysis Branch, ASCS

Statements Filed:

Mr. Siegel

Tuesday, April 27, 1982
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Public Hearing
Oversight of Department of Agriculture
conservation programs

Chairman Brown called the meeting to order, and after a brief opening statement he recognized the witnesses in the order listed on page two for their prepared testimony, after which they responded to questions from Members of the Subcommittee.

The Chairman announced that upon completion of the hearing on USDA conservation programs this afternoon, the Subcommittee would go into a business meeting to mark up H.R. 5203, Federal Insecticide, Fungicide, and Rodenticide Act amendments.

The Subcommittee adjourned at 11:25 a.m., to reconvene at 2:00 p.m. this date.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, April 27, 1982

(Sub) Committee: Department OPerations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Oversight of Department of Agriculture conservation programs

Bill Nos. None

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee met in Open Session at 2:10 pm o'clock, in Room 1302 LHOB

The following members were present:

Mr. Brown
Mr. Panetta
Mr. Wampler
Mr. Thomas
Mr. Roberts, Kans.
Mr. Emerson
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
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Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Thom Adams, Staff Assistant
Skip Stiles, Leg. Assistant to Mr. Brown
Peggy Pecore, Clerk

Witnesses:

1. Oversight on Resources Conservation Act:

   Mr. Raymond D. Lett, Executive Assistant to the Secretary, Department of Agriculture,
   accompanied by: Mr. Richard Siegel, Deputy Assistant Secretary for Natural Resources and Environment, USDA

   Mr. Kenneth Williams, Deputy Chief for Plamming and Evaluation, Soil Conservation Service, SCS, USDA

2. Administrative and policy issues raised during oversight hearings:

   Mr. Raymond D. Lett, Mr. Richard Siegel, Mr. Kenneth Williams

Statements Filed:

Mr. Raymond D. Lett

Tuesday, April 27, 1982
Subcommittee on Department Operations
Research, and Foreign Agriculture
Public Hearing
Oversight of Department of Agriculture
conservation programs

Chairman Brown called the meeting to order and recognized Mr. Lett who gave his prepared testimony, after which he, Mr. Siegel, and Mr. Williams responded to questions from Members of the Subcommittee as appearing in the record.

The Subcommittee adjourned at 3:12 p.m., to reconvene in a business meeting to mark up H.R. 5203, Federal Insecticide, Fungicide, and Rodenticide Act Amendments.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, April 27, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Business

Subject: Federal Insecticide, Fungicide, and Rodenticide Act Amendments

Bill Nos. H.R. 5203

The Department Operations, Research, and Foreign Agriculture (Sub) Committee met in Open Session at 3:25 pm o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Brown
Mr. Panetta
Mr. Wampler
Mr. Thomas
Mr. Roberts, Kans.
Mr. Emerson
Mr. Evans
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Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Jim Selman, Legal Intern
Tom Adams, Staff Assistant
Skip Stiles, Leg. Assistant to Mr. Brown
Peggy Pecore, Clerk

Witnesses:

none

Statements Filed:

none

Tuesday, April 27, 1982
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 5203

Action taken:

--Without objection, agreed to reconsider the vote by which the Subcommittee failed to agree to a motion to report H.R. 5203 to the full Committee on March 25, 1982.

--By voice vote agreed to the motion to report H.R. 5203, as amended, to the full Committee in the presence of a quorum.

Chairman Brown called the meeting to order and reviewed the last action the Subcommittee had taken on March 25, 1982, when it failed, by a tie vote, to agree to a motion to report H.R. 5203 to the full Committee.

A copy of a Committee Print of the bill, as amended by the Subcommittee through March 25, and a brief explanation are attached.

The Chairman informed the Members that a Member who voted on the prevailing side on the motion to report could ask that the vote be reconsidered. He asked if there were any objection, and there was none.

Mr. Wampler was recognized to restate his motion to report the language of a Committee Print in the nature of a substitute, as amended, to the full Committee. The Chairman asked for a vote and the ayes prevailed.

Thus, the bill, as amended, was ordered reported in the presence of a quorum. Staff was given the usual discretion to make the necessary technical and clarifying corrections to the bill.

The Chairman informed the Members he would urge prompt consideration of the bill by the full Committee.

The Subcommittee was adjourned at 3:30 p.m., to meet again subject to the call of the chair.

Peggy Pecore

Peggy Pecore

[COMMITTEE PRINT]

APRIL 26, 1982

[For Use of the Subcommittee on Department Operations, Research, and Foreign Affairs]

97TH CONGRESS
2D SESSION

H. R. 5203

To amend the Federal Insecticide, Fungicide, and Rodenticide Act.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 1981

Mr. BROWN of California (for himself, Mr. WAMPLER, Mr. BOWEN, Mr. EMERSON, Mr. EVANS of Iowa, Mr. FITHIAN, Mr. ROBERTS of Kansas, and Mr. THOMAS) introduced the following bill; which was referred to the Committee on Agriculture

[Strike out all after the enacting clause and insert the part printed in italic]

[For complete text of original bill, see H.R. 5203 as introduced on December 14, 1981]

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981".

DEFINITIONS

Sec. 2. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by amending subsection (ee) by striking out "or" immediately before clause (4) and inserting before the colon at the end of clause (4) the following: ", or (5) using a registered pesticide product for the formulation of another end-use product or for repackaging an end-use product, unless such use is prohibited by the labeling".

REGISTRATION OF PESTICIDES

Sec. 3. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (c)(1) to read as follows:

"(c) Procedure for Registration.—

"(1) Statement required.—Each applicant for registration shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide product;

"(C) a complete copy of the labeling of the pesticide product, a statement of all claims to be made for it, and any directions for its use;

"(D) data as required for registration as provided in subsection (h) of this section with the

trade secret or commercial or financial information marked as required by section 10(a) of this Act;

"(E) the complete formula of the pesticide product; and

"(F) a request that the pesticide product be classified for general use, for restricted use, or for both.";

(2) amending subsection (c)(2)(A) to read as follows:

"(2)(A) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which would usually be required to support the registration of a pesticide product and shall revise such guidelines from time to time. The Administrator, in establishing guidelines for data requirements for the registration of pesticides with respect to minor uses, and with respect to various types and classes of pesticides, shall make such guidelines commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these guidelines, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of

the cost of meeting the guidelines on the incentives for any potential registrant to undertake the development of the required data. Guidelines and modifications thereof shall be published in the Federal Register. The Administrator shall provide for public comment for Agency guidance in development of such guidelines or modifications. Within 30 days after the Administrator registers a pesticide product under this Act the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to the decision. The data shall be made available in a manner consistent with the provisions of section 10 of this Act.";

(3) amending subsection (c)(2)(B) to read as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide product (or a category of products) containing a particular ingredient, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such regis-

trants to any interested person. The notice shall specify the data required, the date by which the data shall be submitted, and the procedure for obtaining rulings by the Administrator on questions concerning the applicability of the notice to various registrants or concerning the nature of the data required to be submitted.

"(ii) Each registrant of such a pesticide product to whom the notice is applicable shall provide evidence within 180 days after receipt of the notification specified in clause (i) of this subparagraph that it is taking the appropriate steps prescribed by the Administrator to secure the required data. If more than one registrant is subject to the notice, such steps shall include entering into a joint data development arrangement, unless the registrants subject to the notice unanimously agree otherwise. The joint data developers shall furnish to the Administrator the name, address, and telephone number of the person to whom inquiries concerning the arrangement should be addressed. As an initial cost of participation the joint data developers shall divide equally 25 percent of the estimated total cost of producing the required data or each shall pay $100,000, which-

ever is less. The balance of the cost of producing the data shall be paid by the joint data developers as needed, and shall be shared by each joint data developer on the basis of its United States market participation for the pesticide being tested, based on total pounds of active ingredient equivalent sold or used annually. Each joint data developer's market participation shall be adjusted during the period of the data development so that the most recent sales figures are used to compute each member's market share for the purpose of determining its share of the remaining cost of producing the required data. Each of the joint data developers shall submit adequate evidence of its annual market participation to an independent auditor for each of the years during the period of the joint data development. Such independent auditor shall be chosen by the joint data developers. The auditor's decisions and determinations shall be final and binding on each of the joint data developers. If further data are required by the Administrator under this paragraph, either before or after the additional data that were originally requested have been submitted, the same formula and procedure specified in this paragraph *shall apply as if the subsequent request were the initial request for data. Any registrant who shares in the cost of producing the data shall be entitled to receive a copy of the data, and to examine and rely upon such data in support of maintenance of such registration.*

"(iii) Notwithstanding any other provision of this Act, if a registrant who is subject to the notice from the Administrator, within the 180-day period prescribed in clause (ii) of this subparagraph, fails to enter into a joint data development arrangement under that clause, or if any of the joint data developers fails to take appropriate steps to secure and submit the required data, the Administrator shall issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data are required: Provided, That the terms of such joint data development arrangement shall be enforceable in an action brought by any developer in any federal district court having jurisdiction over all of the developers or in the United States District Court for the District of Columbia, and such action shall be governed by the law of the District of Columbia. The Administrator may include in the notice of

intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of 30 days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice, or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basic for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act. The only matters for resolution at that hearing shall be whether the Administrator had a valid and reasonable basis for requiring the additional data, whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide product for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a determination shall be made within 75 days after receipt of a *request for such hearing, and the decision made after completion of such hearing shall be final. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.*

"(iv) Subject to the provisions of clause (vi) of this subparagraph, data submitted pursuant to subparagraph (B) (before or after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982) shall not be considered by the Administrator to support any application for registration, amended registration, reregistration or experimental use permit on behalf of any person other than the joint data developers for a period of 15 years after the data are submitted, unless any such person has reimbursed the joint data developers by paying a share of the cost of producing the data in proportion to the number of persons sharing in such costs. Any such person shall upon payment be considered to be an original participant and shall share in all rights and be bound by all obligations entered into

by the original data developers. Such reimbursement shall be returned to the original participants based on the percentage of the overall monetary participation in the joint data development arrangement.

"(v) Health and safety data may be submitted voluntarily by a registrant or applicant after September 30, 1978, to replace data which such person deems scientifically insufficient under generally accepted good laboratory practices or test standards. In order to obtain the rights provided by this clause and clause (iv) of this subparagraph with respect to such data, a registrant or applicant undertaking such a replacement study shall notify the Administrator that the replacement study is being performed or has been performed under this clause. The Administrator shall publish any such notification in the Federal Register promptly after its receipt, and shall state therein whether the validity of the study is under review and any determinations as to its validity which have been made. Each person who, as of the date of publication, is a registrant or an applicant for registration of any product containing the active ingredient which is the subject of the study

shall have the opportunity to participate in a joint data development arrangement as provided in clause (ii) of this subparagraph. If a registrant or applicant of record as of the date of publication of the notice informs the person undertaking the study, within 90 days of the date of publication, of the registrant or applicant's decision to voluntarily participate, the registrant or applicant shall have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph.

"(vi) With respect to any study which has been or is being performed in response to a request for additional data issued under this subparagraph between September 30, 1978, and the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, any person who on such date of enactment is the registrant of a product of the type to which that request applies but who is not already a party to an agreement to share in the cost of performing that study shall be entitled to enter into a joint data development arrangement with any person or group which is performing or has performed that study, under which arrangement such person shall

have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph: Provided, That any registrant who wishes to be availed of the rights provided by this clause shall, not later than 120 days after date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, submit an irrevocable offer to enter into such an arrangement to the person or group which is performing or has performed the study.".

(4) amending subsection (c)(2)(D) to read as follows:

"(D) EXEMPTION.—No applicant for registration, reregistration or amended registration of a pesticide product who proposes to purchase a registered pesticide product from another producer in order to formulate such purchased pesticide product into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such registered pesticide products or offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection and subsection (h) for the use of any such data: Provided, That—

"(a) the applicant shall be exempt from submitting or citing data that concerns the safety of a new use and that are entitled to exclusive-use protection under subsection (h)(2)(A) of this section, only as long as the person who submitted such data has given written permission and any conditions of such permission remain satisfied;

"(b) if at any time after registration, amended registration, or reregistration the Administrator finds that the registrant ceased to use a registered pesticide product as the source of such ingredient in formulating the end-use product, this exemption shall no longer apply and unless the registrant agrees to supply the data required for registration as set forth in subsection (h)(2) of this section, the Administrator shall issue an order suspending the registration and a notice to the registrant providing the registrant an opportunity for a hearing on whether the suspension should be revoked. The hearing, if requested, shall be held in the manner provided by section 6(d) of the Act, except that the only issue to be decided shall be whether

the registrant is entitled to an exemption under this subparagraph, and that the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing; and

"(c) the Administrator may require the submission of data pertaining solely to the safety of a changed use pattern proposed for the end-use product if such data is not otherwise available to the Administrator; and

"(ii) the registrant of such an end-use product shall not be subject to a notice issued under paragraph (2)(B) of this subsection for additional data concerning the safety of that ingredient or of the purchased product.";

(5) amending subsection (c)(3) to read as follows:

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—After receipt of the application, the Administrator shall review the data as expeditiously as possible, and either register the pesticide product in accordance with paragraph (5) or (7) of this subsection, or notify the applicant in accordance with paragraph (6) of this subsection of the Administrator's determina-

tion that it does not comply with the provisions of the Act.";

(6) amending subsection (c)(8) by inserting the designation (A) immediately before "Notwithstanding any other provision of this Act", and adding new subparagraphs at the end thereof as follows:

"(B) At least 90 days prior to initiating a public interim administrative review process, the Administrator shall notify all affected registrants of the risks upon which the proposed review will be based. In finally determining whether to initiate a public interim review, the Administrator shall consider any correcting or clarifying data or other information submitted by a registrant, including data on human or environmental exposure. If after giving notice to registrants under this subparagraph, the Administrator determines that it is not necessary to initiate a public interim review, then the Administrator shall make the reasons therefor available to the public.

"(C) The Administrator shall not by regulation or otherwise utilize a public interim administrative review process to abridge entitlement to a public hearing in accordance with section 6 of this Act.

"(D) A decision by the Administrator not to cancel or suspend the registration of a pesticide product

or any use thereof or not to restrict the classification of a pesticide, following an interim administrative review, shall be subject to judicial review under section 16(b) of this Act. Any final decision by the Administrator to such effect shall be deemed 'an order issued by the Administrator following a public hearing' for the purpose of section 16(b), and any person who has participated in an interim administrative review shall be deemed 'a party to the proceedings' for the purpose of that subsection.";

(7) amending subsection (d)(1)(C)(ii) to read as follows:

"(ii) if the Administrator classifies a pesticide, or one or more uses of a pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such restrictions, including but not limited to geographic, hydrogeologic, soil-specific or seasonal restrictions, as the Administrator may provide by regulation: Provided, That any such regulation that contains restrictions that apply to

the applicator shall require an appropriate notice of such restrictions on the label. Any such regulation shall be published in the Federal Register and shall be reviewable in the appropriate court of appeals upon petition filed within 60 days after the effective date of the regulation in final form by a person adversely affected by the regulation;

(8) adding at the end of subsection (g) the following: "The Administrator shall furnish registrants reasonable notice, not less than 90 days, of when they must apply for reregistration of their products. If an application for reregistration of a product is not received by the date specified in such notice, the Administrator shall issue an order canceling the product's registration. The Administrator may include in the order such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of the product. An order issued under this subsection shall be a final agency action for purposes of section 16(a) of this Act. A cancellation of a product's registration under this subsection shall not affect the right of a person whose registration was canceled to apply for a new registration of that product or a similar product in the future."; and

(9) adding a new subsection (h) to read as follows:

"(h)(1) For the purpose of this subsection:

"(A) The term 'pesticide product that contains a new active ingredient' means a pesticide product that is first registered after September 30, 1978, and that contains an active ingredient which as of the date of that product's first registration, has not been listed as an active ingredient in the ingredient statement of any other registered pesticide product.

"(B) The term 'new use' means, with respect to any active ingredient, a use that has not previously been registered by the Administrator for any product containing such active ingredient, and that results in a change in the use pattern of such product from nonfood to food use, food to nonfood use, outdoor to indoor use, indoor to outdoor use, terrestrial to aquatic use, aquatic to terrestrial use, nondomestic to domestic use, domestic to nondomestic use.

"(C) The term 'old-ingredient data' means data submitted to the Administrator that concerns the safety or effects of any product registered under this Act before the data were submitted, or that concern the safety or effects of any active ingredient of any such product, but shall not include data submitted to fulfill

the conditions of a conditional registration under subsection (c)(7)(C) of this section.

"(D) The term 'data concerning a product's active ingredient' includes data from a test performed using the technical or purer grade of the active ingredient, and data from a test performed using an end-use product or other test substance that is intended to provide information concerning the safety or effects of the active ingredient.

"(2) An applicant shall supply the data required for registration as set forth in this paragraph. The applicant shall submit data or cite data previously submitted to the Administrator, or use any combination of those two methods, except to the extent that the applicant is precluded from relying on data by the following provisions:

"(A) The following data shall not, without the written permission of the original data submitter, be relied on by any other applicant to support any application for any registration (conditional or unconditional), amended registration, or reregistration, or experimental use permit during a period commencing with the date the data are originally submitted and ending 15 years after the date the Administrator approves the original data submitter's application:

"(i) Data (other than old ingredient data) submitted to support the application for the original conditional or unconditional registration of a pesticide product that contains a new active ingredient and data subsequently submitted to fulfill the conditions of such a conditional registration under subsection (c)(7)(C) of this section.

"(ii) Data submitted after September 30, 1978, to support an application to amend a registration of any pesticide product by adding a new use, or to register a pesticide product with a new use, conditionally or unconditionally, and that do not pertain to any previously registered use regardless of the date of the original registration of the pesticide or its active ingredients; and

"(iii) Data (other than old-ingredient data) submitted after the effective date of this provision to support an application for an experimental use permit for a pesticide product containing a new active ingredient;

"(B) During the period in which data of an original data submitter are entitled to exclusive use protection under subparagraph (A) of this paragraph, any subsequent applicant also may obtain a registration for a product having the same new active ingredient or

new use, or may obtain a permit for the same experimental use, by independently filing with the Administrator the data required for registration or for the permit and by satisfying the pertinent requirements of section 3(c)(5), 3(c)(7), or 5 of the Act. Data of the type described by subparagraphs (A)(i), (ii), and (iii) of this paragraph submitted by such subsequent applicant shall be entitled to the same exclusive use protection as described in subparagraph (A) of this paragraph, but only for the duration of the period of exclusive use remaining for data submitted by such original data submitter, and can be relied upon by others only with the written permission of the subsequent applicant.

"(C) Data submitted pursuant to subsection (c)(2)(B) of this section may be relied on by an applicant only in accordance with the provisions of that subsection.

"(D) Data not described by subparagraph (A), (B), or (C) of this paragraph and submitted by an applicant or registrant after December 31, 1969, but on or before September 30, 1978, to support an application for registration, experimental use permit, amended registration, or reregistration or to support or maintain in effect an existing registration, may not, during the

new use, or may obtain a permit for the same experimental use, by independently filing with the Administrator the data required for registration or for the permit and by satisfying the pertinent requirements of section 3(c)(5), 3(c)(7), or 5 of the Act. Data of the type described by subparagraphs (A)(i), (ii), and (iii) of this paragraph submitted by such subsequent applicant shall be entitled to the same exclusive use protection as described in subparagraph (A) of this paragraph, but only for the duration of the period of exclusive use remaining for data submitted by such original data submitter, and can be relied upon by others only with the written permission of the subsequent applicant.

"(C) Data submitted pursuant to subsection (c)(2)(B) of this section may be relied on by an applicant only in accordance with the provisions of that subsection.

"(D) Data not described by subparagraph (A), (B), or (C) of this paragraph and submitted by an applicant or registrant after December 31, 1969, but on or before September 30, 1978, to support an application for registration, experimental use permit, amended registration, or reregistration or to support or maintain in effect an existing registration, may not, during the

conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the applica-

tion or cancel the registration of the pesticide product in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide product. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(E) Except as provided in subparagraphs (A) through (D) of this paragraph, an applicant may rely on any item of data without obtaining the permission of the original data submitter and without offering to compensate the original data submitter for the use of such item of data. Notwithstanding any other provision of this section, an original submitter of an item of data shall be entitled to rely on the provisions of subsection (h)(2)(A), (B), or (D) of this section with respect to that item of data only if the original submitter (or the

predecessor in interest) paid for the generation of the data.

"(F) Notwithstanding any other provision of this Act, no provision of subsection (c)(1)(D) or (h) of this section shall abridge the right of an applicant or registrant to obtain a registration, reregistration, amended registration, or experimental use permit (i) solely on the basis of data originally submitted by the applicant or registrant itself, (ii) except as provided in subparagraphs (A) through (D) of this paragraph, on the basis of previously submitted data cited or submitted by an applicant or registrant, or (iii) any combination of the foregoing; and the Administrator shall not in any way abridge such right.

"(G) The Administrator may approve an application only upon a determination that the application is in compliance with subsections (c)(1)(D) and (h) of this section. If an applicant has submitted or cited data which are required for registration in a manner consistent with subsections (c)(1)(D) and (h), the Administrator may then review any other data in deciding whether approval of such application would cause (or would significantly increase the risk of) unreasonable adverse effects on the environment.

"(H) For the purposes of subsection (h)(2) of this section, the term 'data required for registration' means the minimum kinds and number of studies which the Administrator would require in order to approve an application for unconditional registration under subsection (c)(5) of this section of a product with composition and labeling identical or substantially similar to that of the applicant's product, including data sufficient to satisfy guidelines issued under subsection (c)(2)(A) of this section: Provided, That for purposes of paragraph (1)(A)(ii), (1)(C), and (1)(D) of this subsection, the term includes only data concerning the product's active ingredient(s): Provided further, That to the extent that any such data have not been generated by any applicant or registrant or have been determined by the Administrator to be invalid, the provisions of subsection (c)(7) of this section shall apply. Nothing contained in subsection (h)(1) shall limit the provisions of subsection (c)(2)(D) of this section. An applicant for registration of a product whose active ingredients and intended uses are identical or substantially similar to those of one or more already registered products need not submit or cite data concerning any of the product's active ingredients unless data of the same type for such

ingredients appear on the indexes prepared in accordance with subparagraph (I) of this paragraph.

"(I) The Administrator shall compile, for each active ingredient affected, an index comprised of each item of data described by subparagraphs (A), (B), (C), and (D) of this paragraph. For each such item of data, the list shall set forth the date item of data was originally submitted, the identity of the original submitter, a brief description of the kind of study that yielded the data, and the subparagraph of subsection (h)(2) that describes the data. The Administrator shall make the first such set of indexes available for release to the public not later than 1 year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. An item of data that was originally submitted to the Administrator on or before the date of enactment of this subparagraph may be included on any such index only if, not later than 180 days after such date of enactment, the Administrator has received from the original submitter of that item of data a written statement setting forth the date the item of data was originally submitted, a brief description of the kind of study that yielded the data, the subparagraph in this paragraph that describes the data, the Environmental Protection Agency data accession

number (if known), and the reasons why the item of data is entitled to be included in the index. The Administrator shall, not less frequently than semiannually, update the indexes by adding any item of data described by subparagraph (A), (B), or (C) of this paragraph and submitted after the effective date of these amendments, and by deleting items of data which no longer are described by subparagraphs (A), (B), (C), or (D) or which the Administrator finds were incorrectly included on the indexes. The updated indexes shall be made available to the public. An index shall be deemed to include any item of data which is entitled to be in the index but which was received by the Administrator too recently to have been included in the most recent update of the index. A decision by the Administrator to include an item of data in such an index, or to exclude it, shall be a final Agency action reviewable under section 16(a) of the Act.

"(J) At the request of an applicant for registration of a product containing a particular active ingredient, the Administrator shall require the original submitter of any items of data which concern that active ingredient, but which are not included on any index compiled under subparagraph (I) of this paragraph, to furnish a report which briefly describes the type of study that

yielded each such item of data, states the date each such item of data was originally submitted, and states any accession numbers or other identifying information used by the Agency to catalog the items of data.

"(K) Each application for registration of a new product for reregistration, for an experimental use permit, or for amendment of an existing registration to add a use shall include a list of the applicable data requirements, a list of the data the applicant is submitting or citing to satisfy each such requirement, and a certification that the applicant is not precluded by subparagraph (A), (B), (C), or (D) of this paragraph from relying on any of the data listed with the application. After the Administrator has approved an application, the lists and certification shall be available to the public. Any person who claims that such an applicant has incorrectly listed the applicable data requirements, has not submitted or cited data sufficient to satisfy those requirements, has not submitted a required authorization from a data submitter or otherwise has failed to comply with subsection (c)(1)(D) or (h) of this section, and who claims, in that person's capacity as the original submitter of data included on an index described by subsection (h)(1)(I) of this section, to have been adversely affected by the approval of the applica-

tion may petition the Administrator to hold a hearing to determine whether the registration should be canceled. Such petition shall be in writing and shall contain a detailed statement of reasons why the registration should be canceled. Upon receipt of the petition, the Administrator shall afford the registrant a reasonable period of time, not to exceed 60 days, to respond to the petitioner's allegations. The Administrator shall then decide in writing within 30 days what action to take on the petition.

"(i) If the Administrator finds that the petition and any response show that there is no reasonable possibility that a hearing would lead to cancellation of the registration for the reasons set forth in the petition, the Administrator shall deny the petition. Any such denial shall be a final Agency action for purposes of judicial review under section 16(a) of the Act. The reviewing court shall not allow discovery proceedings nor receive testimony or evidence, and shall base its review solely on the petition, the registrant's response, the Administrator's decision, and the pleadings and briefs filed with the court. If the court finds that the Administrator's decision was arbitrary, capricious, an abuse of discretion, or

otherwise not in accordance with law, the court shall remand the matter to the Administrator for purposes of holding a hearing under this subparagraph. If the court does not so find, the case shall be dismissed.

"(ii) If the Administrator finds that the petition and any response indicate that there is a reasonable possibility that a hearing may lead to cancellation of the registration for the reasons set forth in the petition, or if the Administrator is ordered by a court to hold a hearing, the Administrator shall issue a notice of intent to hold a hearing to determine whether the product's registration should be canceled, which notice shall be furnished by certified mail to the registrant and the petitioner. The hearing shall be held in the manner provided by section 6(d) of the Act: Provided, That the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing: And provided further, That the petitioner shall have the burden of proving that the registration should be canceled. The Administrator's order following such a hearing shall be issued within 90 days from the date of

the notice of intent to hold a hearing. An order following such a hearing that cancels the registration of a product shall take effect immediately upon issuance. Review of the Administrator's order following such a hearing shall be governed by section 16(b) of the Act. The provisions of this subparagraph and of subparagraph (L) of this paragraph shall constitute the sole and exclusive means of review, at the behest of any person other than the Administrator, of the extent to which an application for registration complies with subsection (c)(1)(D) or (h) of this section, notwithstanding the other provisions of this Act, chapters 5 and 7 of title 5 of the United States Code, or any other statute.

"(L) For the purpose of enforcing exclusive rights to data submitted to obtain new use registration pursuant to paragraph (2)(A)(ii) of this subsection, each applicant for registration of a product with uses previously registered by another registrant shall be required to certify that the applicant has reviewed the idexes prepared pursuant to paragraph (2)(I) and any provisional indexes prepared pursuant to paragraph (5) of this subsection, and further that the applicant is not relying on data submitted by another person, without the writ-

ten permission of such person, that the indexes show to be unavailable for use because of exclusivity rights provided under paragraph (2)(A)(ii) of this subsection. Such certification shall not be required from an applicant who is exempt from submitting or citing the data required for approval of the registration under subsection (c)(2)(D) of this section, and the procedures described in this paragraph shall not apply to such person. Upon receiving the required certification, the Administrator may process an application without determining the validity of any statement contained in such certification. Not later than 30 days before approving the application, the Administrator shall make available to the public and offer the publication the name of the applicant submitting such certification, the active ingredients in the applicant's product, and the uses for which registration is sought. Before petitioning the Administrator to hold a hearing to determine whether such registration should be denied (or if it has been approved, canceled), a person who claims that the applicant has failed to comply with subsection (h) of this section and that the person would be adversely affected by such approval in that person's capacity as the original submitter of data included on such index shall notify the applicant in writing of such position.

Within 30 days after receiving this notice, the applicant shall deliver a response in writing to the data submitter. The Administrator may withhold action on the application until 10 days after the data submitter receives the applicant's response. After receiving the response, the data submitter may petition the Administrator to hold a hearing to determine whether to approve the applicant's registration, or to cancel such registration if it has been approved. The Administrator may withhold approval of the registration upon finding that the petitioner is likely to prevail in the dispute. If the Administrator at any time finds that the petitioner acted without good cause in prosecuting the dispute or that the applicant acted without good cause in refusing to withdraw an application that relies on the petitioner's data in violation of this section, the Administrator may award attorney's fees or costs of prosecuting or defending the dispute against the person acting without good cause, and may award damages suffered by the party that acted in good faith. In all other respects, the petition shall be processed in accordance with the procedures specified in paragraph (2)(K) of this subsection, and the Administrator's decision shall be subject to review as provided in paragraph (2)(K).

"(3) Except as provided in paragraphs (4) and (5) of this subsection, the provisions of paragraph (2) of this subsection shall become effective with respect to applications approved in the period beginning 18 months after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

"(4) With respect to any application for registration of a pesticide product that contains a new active ingredient (and contains no other active ingredient), or for registration of any other product containing the same active ingredient, that could be registered under this Act but for the provisions of sections 162.9–3 and 162.9–4 of title 40, Code of Federal Regulations, in effect on the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, the following paragraphs shall become effective immediately upon enactment of such amendments:

"(A) Paragraph (2)(F) of this subsection, except for clauses (ii) and (iii) thereof;

"(B) Paragraph (2)(G) of this subsection; and

"(C) Paragraph (2)(H) of this subsection, except for the last sentence thereof.

"(5) With respect to any application to amend a registration of any pesticide product by adding a new use, or to register a product with a new use, paragraphs (2)(A), (2)(K), and (2)(L) of this subsection shall become effective immedi-

ately upon the submission by the applicant of a provisional index of the applicant's data submitted to support the new use in the form prescribed by paragraph (2)(I) of this subsection, and the publication of such provisional index in the Federal Register. The Administrator may charge the applicant a fee to cover the cost of publishing the index, which fee shall be placed in a revolving fund to be used for the payment of publishing charges.

"(6) Offers to pay compensation under section 3(c)(1)(D) of this Act made before the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982 shall be governed by the law in effect at the time the offer was made.

"(7) Except as provided in paragraph (3) of this subsection, with respect to applications approved before expiration of the 18-month period after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981, an applicant shall supply the data required for registration as set forth in this paragraph. An applicant shall file a statement that includes, except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Admin-

istrator may consider in accordance with the following provisions:

"(A) with respect to pesticides containing active ingredients that are initially registered under this Act after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of 15 years following the date the Administrator first registers the pesticides: Provided, That such permissions shall not be required in the case of defensive data;

"(B) except as otherwise provided in paragraph (A) of this subsection, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this

subparagraph referred to as the 'applicant') within the 15-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and *determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this paragraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Ad-*

ministrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take actions and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(C) after expiration of the period (if any) of exclusive use and any period (if any) for which compensation is required for the use of an item of data under paragraphs (A) and (B) of this subsection, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data.".

CANCELLATION AND CHANGE IN CLASSIFICATION

SEC. 4. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending clauses (1) and (2) of the first sentence to read as follows:

"(1) to cancel or phase out its registration, or to change its classification, together with the reasons (including the factual basis) for such action, or

"(2) to hold a hearing to determine whether or not its registration should be canceled or phased out, or its classification changed.";

(2) striking out the third sentence and inserting in lieu thereof the following: "In determining whether to issue any such notice, the Administrator shall include among the factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers, and on the agricultural economy. The determination of such impacts shall be based on biologic and economic assessments, including but not limited to any prepared by the Department of Agriculture. Such assessments shall be used by the Administrator in formulating and assessing the impacts of the proposed regulatory action."; and

(3) striking out the last sentence and inserting in lieu thereof the following: "In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for

these restrictions, and include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers and on the agricultural economy, and the Administrator shall publish in the Federal Register a notice of availability of an analysis of such impacts. In preparing the final analysis of such impacts, the Administrator shall fully consider all comments on the proposal, including those provided by the Secretary.".

PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

SEC. 5. Section 10 of the Federal Insecticide, Fungicide and Rodenticide Act is amended by—

(1) amending subsection (a) to read as follows:

"(a) IN GENERAL.—In submitting data required by this Act, the data submitter must clearly mark portions thereof which in the opinion of the data submitter are trade secrets or commercial or financial information, explain why each marked portion is not required to be disclosed under subsection (d)(1) of this section, and submit such marked materials separately from the other material required under this Act. Any data (or portions thereof) not so marked submitted more than 60 days after enactment of the FIFRA Amendments of

1982 shall be available to the public without restriction, notwithstanding any other provision of law.";

(2) amending subsection (c) to read as follows:

"(c) DISPUTES.—If the Administrator proposes to make the initial public disclosure of any item of data which the data submitter believes to be protected from disclosure by this section, but which the Administrator has found is not so protected, the Administrator shall notify the data submitter, in writing, by certified mail. The Administrator shall not thereafter make the item of data available to the public until 30 days after receipt of the notice by the data submitter. During this period, the data submitter may institute an action in an appropriate district court for a declaratory judgment as to whether such information is protected from the proposed disclosure. The procedures prescribed by this subsection shall apply only to the first time a given item of data is disclosed to the public. This subsection shall not apply to any proposed disclosure under subsection (d)(4) of this section.".

(3) amending subsection (d)(1) to read as follows:

"(d) LIMITATIONS.—

"(1) Notwithstanding any provision of section 552, of title 5, United States Code or any other law, to the contrary, all information concerning the objectives, methodology, results, or significance or any test

or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public as provided in paragraphs (2) and (3) of this subsection: Provided, That the use of such data for any registration purpose shall be governed by section 3 of this Act. This paragraph does not authorize the disclosure of any information as to—

"(A) manufacturing or quality control processes,

"(B) the details of any methods for testing, detecting, or measuring the quantity of and deliberately added inert ingredient of a pesticide, or

"(C) the identity or percentage quantity of any deliberately added inert ingredient of a pesticide, unless the Administrator has first determined that disclosure is necessary to protect

against an unreasonable risk of injury to health or the environment.

"Before disclosing any information under this section that was submitted prior to the effective date of interim final regulations promulgated pursuant to this subsection (other than information which has already been made available to a member of the public or which the data submitter has previously stated do not contain trade secret or commercial or financial information), the Administrator shall afford the submitter of the information a reasonable period of time, not to exceed 60 days from the date of receipt by the data submitter of a request by the Administrator, to identify any portions of the information the data submitter claims are described by clause (A), (B), or (C) of this paragraph and to substantiate such claims. If no claim is made (or if the claim is not substantiated) within the period afforded, the information shall be made available in accordance with this section. The provisions of subsection (c) of this section shall apply to disputes with respect to information which the Administrator finds not to be of the type described by clause (A), (B), or (C) of this paragraph.";

(4) redesignating subsections (d)(2) and (d)(3) as subsections (d)(3) and (d)(4), respectively;

(5) adding a new subsection (d)(2) to read as follows:

"(2)(A) R*EGULATIONS.—The Administrator shall expeditiously promulgate regulations to implement subsections (d) and (f) of this section. The regulations shall establish procedures pursuant to which information that may be disclosed under subsections (d)(1) and (f) of this section shall be made available to the public. The regulations shall permit all persons not excluded by subsection (f) of this section, and also employees of the United States, agencies of State governments, and authorized scientific personnel representing an employee of a pesticide producer or registrant or the employee's trade union, to obtain copies of data, but shall impose conditions governing further copying or transfer of the data; shall prescribe the conditions under which the data are to be maintained while they are being used; shall prescribe procedures permitting publication of any information in the studies regarding the health, safety or environmental effects of a product (except as provided in paragraph (2)(B) of this subsection), including but not limited to protocols and results of environmental and toxicological studies; and shall prescribe procedures for submission of such information in litigation and administrative proceedings under an adequate protective order. Such restrictions, conditions and procedures shall restrict use and disclosure of data only to the extent*

necessary to prevent use of the data by persons other than the data owner to obtain or maintain registrations (or other governmentally required approvals) of pesticide products, and to prevent violations of subsection (f) of this section, in order to protect the proprietary rights of data owners against the use of their data by competitors as provided in this Act. The regulations shall be consistent with the statement of disclosure principles contained in section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. Notwithstanding any provision of this Act or of any other law, interim final regulations initially shall be promulgated and become effective within 60 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, and the provisions of section 25(a) of this Act shall not apply to the promulgation of such interim regulations. At least 15 days before signing the interim regulations in final form for publication in the Federal Register, the Administrator shall furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The interim final regulations shall be superseded as soon as possible (allowing time for notice and comment) by final regulations. The provisions of this section and the regulations promulgated thereunder shall apply with respect to all data submitted to the Administrator, whether *before or after the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.*

"(B) INNOVATIVE METHODS AND TECHNOLOGY.—For the purpose of this section, the term 'innovative methods and technology' means innovative methods or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, environmental chemistry, residue chemistry, and metabolism data, that are substantially different from known methods or technologies, and innovative compositions of matter, and that, if disclosed, could provide a significant advantage to competitors of the submitter of the data. In no event shall an item of data be considered an innovative method or technology for longer than 5 years after the date of submission. The regulations promulgated under paragraph (2)(A) of this subsection shall establish separate procedures for making information concerning innovative methods and technology available to the public. The innovative methods and technology shall be made available to scientists acting on behalf of Federal or State agencies, independent scientists working in the field to which the data pertain (and otherwise qualified to receive data under subsection (f) of this section), and scientists and staff representatives acting on behalf of non-profit health, environmental or labor organisations, seeking access to the data to conduct an independent

peer review or replicate the study, but shall not otherwise be made available to the general public. The regulations shall establish procedures by which such scientists and representatives may communicate with each other and with the Administrator, and in judicial or administrative proceedings, concerning the innovative methods and technology without disclosing them to the public. If requested by such a scientist or representative, the submitter of the innovative methods and technology shall provide within 15 days a summary of the data to such requester for disclosure to the general public. If such summary is not timely provided, the data shall no longer be considered an innovative method or technology under this paragraph. Any person who is given access to an innovative method or technology for the purpose of peer review or replication may, after such review or replication has been conducted, request the Scientific Advisory Panel to review such data. If the Panel finds that the method or technology is not innovative, is invalid, or should be disclosed if necessary in the public interest, because of concerns as to protection of health, safety or the environment, it may make recommendations to the Administrator, including a recommendation that the method or technology be made available under paragraph (2)(A) of this subsection and if the Administrator concurs in such recommendations, the Administrator may make the method or technology so available. The

Administrator's decision shall be regarded as final agency action reviewable under section 16(a) of this Act.

(6) amending subsections (f) and (g) to read as follows:

"(f) DISCLOSURE TO PESTICIDE PRODUCERS.—Except as otherwise provided in this section, the Administrator shall not knowingly allow access to information submitted by an applicant or registrant under this Act to any person engaged in, or who intends to engage in, the production or registration of pesticides, or to any employee or agent of such person, or any other person who intends to disclose such data to such person, unless the data submitter has consented to such disclosure. Notwithstanding any other provision of this section, during administrative adjudicatory hearings or court litigation a party who is a pesticide producer or registrant may, pursuant to an appropriate protective order issued by the court or presiding administrative official, examine and obtain a copy of data submitted by another person (other than data described by subsection (d)(1) (A) through (C) or subsection (d)(3) of this section), if the party's access to the data is found to be necessary in order to allow the party to participate fully in the hearing or litigation.

"(g) INTERNATIONAL AGREEMENTS.—Notwithstanding any other provision of law—

"(1) The Administrator shall not make available for public inspection any document or information concerning pesticides if (A) the Administrator obtained the document or information from the government of another country (or from an international organization of countries), (B) the government or international organization required the Administrator to agree not to disclose the document or information to the public as a condition of furnishing it to the Administrator, (C) the Administrator could not otherwise obtain the document or information, and (D) the government or international organization continues, to demand that the document or information not be made available for public inspection.

"(2) The Administrator may disclose information obtained under this Act to the government of another country or its agents (or to an international organization of countries) only under the following conditions. The information that may be so disclosed shall include all information that may be publicly disclosed under subsection (d)(1) of this section but shall not include any information described in subsection (d)(1) (A), (B), or (C), or (d)(3) of this section. The Administrator may make such disclossures if he executes an agreement with another country which furnishes assur-

ances acceptable to the Administrator that the government—

"(A) will not further disclose the information without the consent of either the Administrator or the submitter of the information; and

"(B) will not allow the information to be used directly or indirectly to support any application for, or decision to grant, a license, permit, or other action which allows the production, sale, or distribution of a pesticide under any country's laws. The Administrator shall provide notice to affected persons and an opportunity for comment prior to entering into any such agreement with the government of another country. The Administrator shall provide notice to a data submitter of the proposed transfer of data to a foreign government under such an agreement. The Administrator will not consent to public disclosure of information by a foreign government under subparagraph (A) of this paragraph which would have the effect of permitting disclosure of information that is not permitted under this Act, or permitting disclosure under conditions that are less restrictive than those permitted by this section and any regulations promulgated thereunder.

(7) adding a new subsection (h), to read as follows:

"(h) CIVIL ACTION.—A submitter of data to the Administrator who is or may be adversely affected by the violation (or threatened violation) of this section by another person (other than a Federal or State official) who is acting willfully in furtherance of a commercial purpose may bring an action in an appropriate United States district court against such person to prevent and restrain the violation, obtain damages for the violation, or both. The court shall award treble the actual damages shown, and shall award punitive damages for a gross violation. A data submitter also may bring an action in an appropriate United States district court against the Administrator or against any agency official specifically to enforce, or restrain violations of, this section.";

(8) adding a new subsection (i), to read as follows:

"(i) UNLAWFUL ACTS.—It shall be unlawful (1) for any person who has obtained information from the Administrator under this section to disclose or transfer the information in a manner prohibited by this section or by regulations implementing this section; (2) for any person to solicit or abet any disclosure or transfer of information that is unlawful under paragraph (1); or (3) for any person to make commercial use of information that the person received under this

section or through a disclosure or transfer that he knew or should have known to be unlawful under paragraph (1)."

UNLAWFUL ACTS

SEC. 6. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out "or" at the end of clause (O);

(2) striking out the period at the end of clause (P) and inserting in lieu thereof "or"; and

(3) adding a new subparagraph at the end thereof as follows:

"(Q) to discharge from employment or otherwise adversely affect the employment status (including the compensation, terms, conditions, or privileges of employment) of any employee because that person (or any person acting pursuant to a request of the employee) has exercised rights under this Act, filed complaints concerning alleged violations of this Act, testified or is about to testify in any such proceeding (including proceedings concerning alleged violations of this Act), or assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.".

PENALTIES AND REMEDIES

SEC. 7. Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out the title ***"SEC. 14. PENALTIES"*** *and inserting in lieu thereof* ***"SEC. 14. PENALTIES, AND REMEDIES"****;*

(2) redesignating subsections (a)(3), (a)(4), and (a)(5) as subsections (a)(4), (a)(5) and (a)(6), respectively;

(3) adding a new subsection (a)(3) to read as follows:

"(a)(3) DISCLOSURE OF DATA.—Any person granted access to data pursuant to section 10(d) who violates the provisions of that subsection or regulations promulgated thereunder, or the provisions of subsection 10(i), or who knowingly accepts, obtains or uses data prohibited from disclosure under subsection 10(d), 10(f) or 10(g), or under regulations promulgated under section (d)(2), (A) may be assessed a civil penalty by the Administrator of not more than $100,000 for each document or study accepted, obtained or used in violation of section 10, (B) may be denied further access to any data, temporarily or permanently, and (C) all registrations issued to such person and to anyone on whose behalf such person was acting may be summarily canceled without

regard to procedures for cancellation in section 6 of this Act that may otherwise be applicable: Provided, That in the case of a violation that was not perpetrated in furtherance of a commercial purpose, the only penalty shall be temporary or permanent denial of further access to data by the violator and such other persons and organizations on whose behalf the violator was acting.";

(4) amending subsection (a)(4), as redesignated, to read as follows:

"(a)(4) DETERMINATION OF PENALTY.—In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that a violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty. In determining the amount of the penalty in the case of a violation as described in paragraph 3 of this subsection, or as described in section 10(i) of the Act, the Administrator shall consider only the gravity of the violation. In the case of a violation that was not perpetrated in furtherance of a commercial purpose involving the production, registration, distribution or sale of a pesticide, the only penalty shall be denial of further access to

data. In the case of the willful commission in furtherance of a commercial purpose of an act prohibited by section 10(i) of the Act, the penalty shall include but not be limited to the cancellation of all registrations of such person and anyone on whose behalf that person was acting.";

(5) amending subsection (b)(3) to read as follows:

"(b)(3) DISCLOSURE OF INFORMATION.—

"(A) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than $100,000, or imprisoned for not more than 3 years, or both.

"(B) Any person granted access to data under section 10(d) who in furtherance of a commercial purpose knowingly violates the provisions of section 10(d), 10(f), 10(g) or 10(i) of this Act, or knowingly allows data to be made available contrary to the provisions of section 10 of this Act to any other person engaged in the production or registration of pesticide products or any employee or agent thereof in violation of such section, shall be fined not more than $100,000 or imprisoned for not more than 1 year or both.

"(C) Any officer or employee of the United States or any State or former officer or employee of the United States or any State, who, by virtue of such em-

ployment or official position has obtained possession of, or has access to material the disclosure of which is prohibited by section 10, and who, knowing that disclosure of such material is prohibited by such section, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than $100,000 or imprisoned for not more than 1 year, or both. For the purpose of this subparagraph, any contractor with the United States who is furnished information as authorized by section 10(e), or any employee of any such contractor, shall be considered to be an employee of the United States.

"(D) Section 1905 of title 18 of the United States Code shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act. Nothing in this Act shall preempt any civil remedy under State or Federal law for any disclosure wrongful under section 10."; and

(6) Adding a new subsection (c) as follows:

"(c) EMPLOYEE REMEDIES.—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of section 12(a)(2)(Q) of this Act may, within 30 days after such alleged violation occurs, file (or have any person file on the

employee's behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2) Upon receipt of a complaint filed under this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by paragraph (3) of this subsection or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(3) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of section 12(a)(2)(Q) of this Act has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(4) REVIEW.—Any employee or employer adversely affected or aggrieved by an order issued under paragraph (3) of this subsection may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. An

order of the Secretary, with respect to which review could have been obtained under this paragraph, shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) Whenever a person has failed to comply with an order issued under paragraph (3) of this subsection, the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

"(6) EXCLUSION.—This section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.".

JUDICIAL REVIEW

SEC. 8. Section 16 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) Any person claiming to be aggrieved by use of a pesticide in violation of this Act may bring suit in a United States district court having jurisdiction of the parties for equitable relief but not for damages and attorney's fees.".

EXPORTS

SEC. 9. Section 17(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Notwithstanding the provisions of section 10(g)(2) of this Act, but subject to the restrictions on disclosures of trade secrets as specified in section 10(d)(1) (A), (B), and (C), such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 of this Act and that could be used in lieu of such pesticide.".

STATE COOPERATION, AID, AND TRAINING

SEC. 10. Effective with the fiscal year beginning October 1, 1982, section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out in subsection (a) the second and third sentences; and

(2) adding at the end thereof a new subsection as follows:

"(d)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators during such fiscal year pursuant to subsection (c) of this section. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator.

"(2) There are also authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator.

"(3) The total amount authorized to be appropriated under paragraphs (2) and (3) of this subsection may not exceed $4,000,000 for each fiscal year. If funds sufficient to pay 50 percent of the costs under paragraph (2) or (3) of this

subsection for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

"(4) States conducting training and certification programs under State plans shall coordinate such programs to assure that standards for certification of applicators of pesticides are attained and maintained as prescribed by the Administrator under section 4 of this Act.".

AUTHORITY OF THE STATES

SEC. 11. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection 24(a) to read as follows:

"(a)(1) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent that the regulation does not permit any sale or use prohibited by this Act.

"(2) If a State in regulating the sale or use of a federally registered pesticide or device in the State wishes health and safety data submitted for review in connection with a State registration or approval, the following shall apply:

"(A) With respect to data previously submitted in support of the Federal registration, the State may request the applicant to submit such data to the State for review, and if the applicant does not provide the State such data as is requested, the Administrator shall

make the data available to the State, subject to the provisions of section 10. At the option of the State, the data may be obtained from the Administrator under the provisions of section 10 without first making the request to the registrant.

"(B)(i) A State may require submission of additional data with respect to any special local concerns relating to either an increased risk of any unreasonable adverse effect on the environment from the uses of such pesticide or device in the State, or a reduced efficacy of the pesticide or device in the State for the uses for which the application to the State is made: Provided, That the State shall give the applicant written notice of the purpose and justification of the requirement.

"(ii) In the case of a nonrestricted use or general use pesticide, as classified by the Administrator pursuant to section 3(d), except for pesticides utilized in the production of a commercial food, feed or fiber, crop, if the applicant wishes to contest the request for data described in clause (i) of this subparagraph, the applicant may submit the request to the Administrator for review. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the

additional data under section 3(c)(2)(B) of this Act. The State's determination of a special local concern pursuant to this section shall not be subject to review by the Administrator but shall be subject to judicial review. The Administrator may overrule or modify the State request for additional data if the Administrator determines that the request is arbitrary or capricious, or determines that there exist sources of comparable data that would be available to the State for the purposes of satisfying its request and so notifies the State. The State and the applicant may submit to the Administrator any additional information pertaining to the data request. The Administrator shall publish in the Federal Register the basis for any determination that overrules or modifies the State request. A State may obtain judicial review of a decision by the Administrator to overrule or modify that State's data request. The applicant may seek judicial review of the determination of the State to require the data either before or after the matter has been submitted to the Administrator for review and the Administrator has made a determination: Provided, That the Administrator shall not be a party to any such action.

"(iii) In other cases involving special local concerns, any applicant that wishes to contest the request

for additional data shall be subject to the provisions of State law.

"(C) Any request for data that does not relate to special local concerns as described in subparagraph (B) of this paragraph, and that was not previously submitted to the Administrator in support of the Federal registration shall be reviewable by the Administrator. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The Administrator may otherwise disapprove the request if the Administrator determines that the request is arbitrary or capricious or that there is no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. Any request for data under this subparagraph shall be submitted to the applicant and at the same time a copy shall be forwarded to the Administrator. If the Administrator has not taken any action within 60 days after receipt of the request for additional data, or 15 days after receipt by the Administrator of any additional information that may be requested of the State, approval of the request by the State shall be

presumed. Any determination by the Administrator shall be final and not subject to judicial review.

"(3)(A) Except as to applications for which a State has requested health and safety data that relate to special local concerns as described in paragraph (a)(2)(B) of this subsection, if a State receives an application for a registration, the registration shall be granted pending further review if the State has not affirmatively approved or disapproved the application within—

"(i) 60 days after receipt of the application or such lesser period as may be provided in State law, or

"(ii) if the application for registration involves a restricted use pesticide, or a general use pesticide utilized in the production of a commercial food crop, and the use is a new use of the pesticide or device within a State, or the pesticide contains a new active ingredient, for which the State has not previously granted approval, within 120 days or such lesser period as may be provided by State law after receipt of the application accompanied by all data, if any, required by State law and regulations at the time of application, or with appropriate reference to data previously submitted or cited by the applicant.

"The provisions of this paragraph shall apply both to cases where the State has made a request for

additional data, as well as to cases where the State had not made such a request.

"(B) With respect to applications for which a State has requested health and safety data that relate to special local concerns as described in subsection (a)(2)(B) of this section, a State may prohibit or restrict the sale or use of the pesticide or device within a State for which the application is made pending development, submission, and review of the health and safety data.

"(C) A State may not restrict the sale or use of a pesticide or device within the State for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request under paragraphs (2)(B) or (2)(C) of this subsection.

"(4) The district courts of the United States shall have jurisdiction to review determinations of the Administrator under this subsection and of the States under subsection (a)(2)(B)(ii) of this section that are subject to judicial review and shall have jurisdiction to enforce and to prevent and restrain violations of the provisions of paragraph (3)(A) of this subsection.".

SCIENTIFIC ADVISORY PANEL

SEC. 12. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending the fourth sentence to read as follows: "The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections.";

(2) striking out the eighth sentence and inserting in lieu thereof the following: "The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation from the disciplines of toxicology, pathology, environmental biology, and related sciences. Initially, 2 panel members shall be appointed for a 2-year term, 3 members for a 3-year term, and 2 members for a 4-year term; thereafter, except as provided in this subsection, panel members shall be appointed to serve 4-year terms. In the

event a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. During either nominating process set forth herein, should the list of nominees be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities noted above."; and

(3) striking out in the penultimate sentence "September 30, 1981" and inserting in lieu thereof "September 30, 1987".

SAFE WORKING CONDITIONS

SEC. 12. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) The Congress hereby finds and declares that the following steps are necessary to provide for the safe use of pesticides and for safe working conditions for farmworkers,

and other persons handling, storing, or applying pesticides in the commercial production of food, feed, and fiber crops. The Administrator shall, if new regulations are found to be necessary, promulgate regulations pursuant to the procedures set forth in this section as soon as practicable, but in no event later than one year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, to establish minimum field reentry standards, to develop appropriate methods of advising persons specified in this subsection of such standards, and to establish minimum requirements for storing, warehousing, and disposal of pesticides and pesticide containers. This subsection shall not apply to any persons covered by standards or regulations issued under the Occupational Safety and Health Act prior to the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.".

RECORDS CONCERNING STATE ENFORCEMENT

SEC. 14. Section 26(a)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(3) will keep such records necessary to provide an annual programmatic review showing compliance with paragraphs (1) and (2) of this subsection. Where emergency conditions exist, reports of emergency ac-

tions taken shall be provided to the Administrator at the earliest practical date.".

STATE ENFORCEMENT ACTION

SEC. 15. Section 27(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this Act. As soon as practicable after a complaint is filed and in no event later than 30 days, the State must commence appropriate investigative action, and if within 120 days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint of information to the extent authorized under this Act: Provided, That in the event of a complaint pertaining to a violation involving an alleged injury to an agricultural worker, the State must undertake an appropriate field investigative action as soon as possible, and in no event later than 5 days after receipt of the complaint, if a longer period of delay in investigative action would jeopardize the gathering of scientific information needed in order to substantiate or refute the substance of the complaint.".

EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS

SEC. 16. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136y) is amended by adding at the end thereof a new sentence as follows: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1981, and ending September 30, 1982, such sums as may be necessary, but not in excess of $62,069,000; for the period October 1, 1982, and ending September 30, 1983, such sums as may be necessary but not in excess of $56,367,000; and for the period beginning October 1, 1983, and ending September 30, 1984, such sums as may be necessary but not in excess of $59,750,000.".

PRINCIPLES FOR REGULATIONS IMPLEMENTING THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982 CONCERNING SECTION 10

SEC. 17. (a) PURPOSE.—This section sets forth the principles that shall guide the Administrator of the Environmental Protection Agency in developing and promulgating the regulations required under the amendments made by this Act to section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act. Such regulations shall serve the purposes of providing complete access to copies of health, safety and environmental data by those members of the public who are not *associated with the pesticide industry, and assuring their ability to communicate and make public information in such studies concerning health, safety and environmental effects, while at the same time protecting the proprietary interest of the owner or submitter of studies in preventing competitors from having access to the data or making unauthorized use of the data.*

(b) PROCEDURES FOR OBTAINING ACCESS TO DATA.—(1) The regulations described by this section shall provide that a person shall, upon request, be entitled to obtain a physical copy of data as soon as the requester establishes that the requester is not acting on behalf of a pesticide producer or registrant and certifies that the requester will not improperly use or disclose the data. To this end, the requester shall be required to: (A) submit to the Administrator the requester's name, permanent address, and name of employer; (B) certify that the requester is not (and is not employed by or acting on behalf of) a pesticide producer or registrant; (C) certify that the requester does not seek the information, and will not use the information, for a commercial purpose in the pesticide business; (D) certify that the requester will follow the Administrator's regulations for treatment of any data received; (5) certify that the requester will update this certification immediately should any statement in it change; and (E) certify that if the requester subsequently becomes employed

by or acts in behalf of a pesticide producer, the requester will so advise the Administrator and return all information prior to commencing such employment.

(2) The regulations shall further provide that: (A) the information supplied by the requester shall be supplied to the data owner or submitter (hereinafter "submitter") during a 30-day verification period, which shall run concurrently with, and not in addition to, any other notice or review period provided for the submitter; (B) if the submitter establishes reasonable cause to believe that the requester is acting on behalf of a pesticide producer, the Administrator may require more information from the requester to establish the requester's status; (C) the only bases upon which a person may administratively or judicially challenge the right of a requester to obtain access to data shall be an assertion that the other person is barred under section 10(f) of the Federal Insecticide, Fungicide, and Rodenticide Act, that the person has previously violated the regulations, or, in the case of innovative methods or technology, that the requester is not qualified to receive the information; (D) the 30-day verification period shall apply only to each initial request by a particular requester for data of a particular submitter; and (E) records of releases of data by the Administrator shall be kept by the Administrator and made available to the submitter promptly on request.

(c) PROCEDURES FOR TRANSFER AND COPYING.—The regulations shall impose conditions governing the further transfer and copying of data, which conditions shall be designed to prevent a competitor from obtaining a verbatim copy of a study, while allowing a person who lawfully obtains a study from the Administrator to communicate or make public information in a study concerning health, safety, or environmental effects (with the exception of data describing innovative methods and technology). The regulations shall provide that a study may be copied or transferred to another person only in accordance with the following procedures:

(1) A person or organization that has obtained data ("transferor") may distribute verbatim copies of data to any other person, including but not limited to any member, employee, or consultant of a transferor organization ("transferee") if the transferor first establishes that the identifying information and required certification for each such transferee have first been submitted to the Administrator and any applicable 30-day verification period has expired with respect to each such transferee. A transferor that distributes verbatim copies in this manner shall take suitable steps to safeguard the data, shall number each copy transferred,

and shall submit to the Administrator a record showing the transferee's identity and the date of transfer.

(2) In certain extraordinary circumstances, a physical copy of data may be transferred even if the transferee has not yet filed a certification or if the 30-day vertification period has not yet expired, but only if the transferor executes a certification that the data have been transferred to medical personnel or their staff for use in connection with a medical emergency, and the transferee has executed or will execute as soon as practicable the required certification and file it with the Administrator, or that the data have been transferred to a person who seeks to use them in an administrative, judicial, or legislative proceeding concerning the imminent use of a pesticide, and that the transferee has executed the required certification and sent it to the Administrator.

(3) The regulations shall provide that data may be transferred to a transferee whose identity is not revealed to the Administrator or the data submitter if: (A) the transferor submits to the Administrator an additional certification that the transferor has attempted to obtain independent scientific review of a study by the transferee and that the transferee is not willing to conduct an independent scientific review and express

an opinion on the study unless the transferee is granted anonymity; (B) the transferor submits to the Administrator in a sealed envelope the required certification, executed by the transferee, with a request that it be held, unopened, by the Chief Administrative Law Judge of the Administrator; (C) the transferor notifies the data submitter of the transfer; and (D) the transferor certifies to the Administrator that the transferor will retrieve the data from the transferee when the review is completed. The regulations shall provide that if at any time the data submitter shows that there is good cause to suspect an illegal disclosure of the data attributable to the transferee, the Chief Administrative Law Judge may upon request convene a hearing to investigate the circumstances and may disclose the identity of the transferee to data submitter if the results of the hearing show that disclosure is warranted.

(d) PUBLICATION.—The regulations shall provide that: (1) information in any study concerning health, safety, or environmental effects of pesticides may be publicly discussed, quoted, and communicated without restriction (and without fear of penalties) by persons who have lawfully obtained the study; (2) verbatim copies of the study or of any page thereof ordinarily may not be published; (3) selected charts and tables that comprise an entire page of a study may be pub-

lished verbatim, but a person's further access to data may be restricted or denied by the Administrator if it is found that such publication right has been abused and resulted in substantial verbatim publication; (4) no prior or subsequent notifications shall be required for such publication or communication of information in a study; and (5) except for the restrictions on copying, transfer, and publication of verbatim copies, the information can freely be given to anyone in oral or written form, without having to ascertain whether such person is a pesticide producer or has filed a certification with the Administrator.

(e) INNOVATIVE METHODS AND TECHNOLOGY.—

(1) The regulations shall establish separate procedures for the treatment of the limited portions of data that contain "innovative methods and technology," in order to afford a greater degree of protection to such data.

(2) The regulations shall provide that in order to constitute an "innovative method or technology," an item of information must describe scientific method or technology (or a method of combining known technology) which is: (A) innovative; (b) not otherwise available to the public; (C) used for the purpose of obtaining product chemistry, environmental chemistry, residue chemistry, or metabolism data; (D) substantially differ-

ent from known methods or technologies; and (E) capable of providing, if disclosed, a significant advantage to competitors of the submitter of the data. An item of data may not be considered an innovative method or technology for longer than 5 years after the date of submission. The regulation shall provide that test methods or technology described or referenced in the Administrator's registration guidelines or in the scientific literature, or any test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife, are not eligible for treatment as "innovative methods or technology." Except for those portions of a study that describe an innovative method or technology, the remainder of the information in a study, including results, discussions, conclusions, and non-novel test methods, shall be made available in the same manner as other data.

(3) The regulations shall provide that information concerning a new chemical compound shall be treated as an "innovative method or technology" if: (A) the information discloses the identity of, or describes a potential new use of, the compound; (B) the information is not already known to the public; (C) the disclosure of the information could provide a significant competitive advantage to the data submitter's competitors; (D) the

compound is not an active ingredient of any product which is registered or for which registration is being sought; and (E) the compound is not an impurity of a product, not a metabolite for which a clearance is required under the Federal Food, Drug, and Cosmetic Act, and not a nonmetabolic degradation product of an active ingredient.

(4) The regulations shall require the data submitter to mark any portion of a study that the submitter claims describes an innovative method or technology at the time of first submission of the data to the Administrator, or, for data already submitted, at the time access to the data is first requested.

(5) The regulations shall provide that proceedings to resolve disputes about whether information is "innovative methods or technology" may be initiated by the Administrator or any person to whom the information is made available, and that any such dispute shall be handled in the same manner as a dispute about whether information is properly classified under section 10(d)(1) (A), (B) or (C) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(6) The regulations shall provide that authorized recipients may request the Scientific Advisory Panel to review the data, in a proceeding in which the author-

ized recipient would participate, to determine whether the method or technology is not innovative, is invalid, or should be disclosed if necessary in the public interest because of concerns as to protection of health, safety, or the environment. The Panel shall report its findings to the Administrator, and may recommend that the method or technology be made available to the public in the same manner as other data. If the Administrator concurs in such recommendation, the Administrator may make the method or technology so available, subject to judicial review under section 16(a) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(7) The regulations shall provide that: (A) information describing innovative methods and technology shall be made available by the Administrator only to scientists acting on behalf of Federal or State agencies, independent scientists who work in the field to which the data pertain (and who are otherwise qualified to receive data under section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act), and scientists and staff representatives acting on behalf of nonprofit health, environmental, or labor organizations in order to permit such persons to conduct an independent scientific review, replicate a study, or evaluate health,

safety, and environmental implications of the study ("authorized recipients"); (B) authorized recipients may communicate with each other regarding the data, but may not disclose the innovative methods or technology to persons who are not authorized recipients; and (C) authorized recipients may communicate with the Administrator in judicial or administrative proceedings with respect to the innovative methods and technology.

(8) The regulations shall provide that in all other respects, authorized recipients who are given access to this information may make use of the information in any reasonable manner in order to accomplish the purposes of independent scientific review, replication, or evaluation of health, safety, or environmental implications, under reasonable conditions that will prevent the disclosure of the innovative methods and technology to the general public.

(f) SAFEGUARDING INFORMATION.—The regulations shall provide that a person who receives the data from the Administrator or from a transferor must use ordinary reasonable care to safeguard the copies and prevent improper disclosure (that is, use the same kind of care that reasonably would be used to protect any valuable item, including keeping copies of the data in a locked facility when they are not being used),

but shall not be required to take steps which are oppressive or financially burdensome.

(g) TRANSFEROR'S RESPONSIBILITY FOR TRANSFEREE'S ACTIONS.—The regulations shall provide that a transferor's access to privileges may be temporarily or permanently revoked if a transferee who obtained information from that transferor failed to take the steps required by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act and the implementing regulations to qualify for access to, and safeguard, the information.

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BRIEF EXPLANATION OF COMMITTEE PRINT DATED APRIL 26, 1982 OF H.R. 5203, AS AMENDED

Registration of Pesticides

A. Exclusive use and compensation provisions

Provides exclusive use protection for a 15-year period for data submitted to support the application for (1) the original registration of a pesticide containing a new active ingredient initially registered after September 30, 1978, (2) data submitted after September 30, 1978, to support an application for a new use of a previously registered pesticide if the data pertains solely to the new use, regardless of the date of original registration of the pesticide, and (3) data submitted after the effective date of the provision to support an application for an experimental use permit for a pesticide with a new active ingredient.

Authorizes an applicant to submit data of his own or cite data previously submitted to EPA or use any combination of these two methods, except to the extent that the applicant is precluded from relying on data by the exclusive use or compensation provisions.

Makes the effective date of the new exclusive-use and compensation provisions generally 18 months after enactment of the amendments. However, exclusive-use rights for new active ingredients are made effective immediately for applications based solely on data originally submitted by the applicant. Exclusive rights for new-use data are made effective as soon as the data owner submits an index of the data to support the new use and the index is published in the Federal Register.

With respect to applications approved in the period after the date of enactment of the bill and before the effective date of new provisions--

(1) Provides exclusive use protection for a 15-year period with respect to data submitted to support an application for the original registration of a pesticide, and (2) in the case of new uses, the exclusive use protection would apply only to pesticides registered after September 30, 1978 and for the balance of the 15-year period of exclusive use remaining after the original registration of the pesticide. (This is the same exclusive use protection as in current law except that the period is extended from 10 to 15 years.)

B. Data indexes

Requires the Administrator to compile and make available to the public an index comprised of each item of data submitted for each active ingredient protected by the exclusive use or compensation provisions. The index must be completed and made public not later than one year after the date of enactment of the bill. Data would be included on the index if submitted before the date of enactment only if within 6 months after enactment of the bill EPA received from the original data submitter relevant information for inclusion of the data in the index. Requires updating of the index at least semiannually. A person seeking to register a product with active ingredients and uses substantially similar to an already registered product need not submit or cite data on the active ingredients unless data of the same type appeared on the indexes for those ingredients.

Requires that after approval of any new registration application, lists of data cited and submitted must be made public. Authorizes any registrants, who originally submitted data included on the index claiming to be adversely affected, to petition for a hearing to determine whether the registration should be canceled. Review of orders following a hearing may be obtained in the U.S. courts of appeals.

C. Additional data to support existing registrations

Amends defensive data procedures (i.e. additional data sought by EPA on a pesticide that is already registered) to:

(1) Allow registrants 180 days to respond to an EPA data request, rather than the present 90 days;

(2) Require, rather than permit, registrants to enter into joint data development arrangements, unless all registrants agree otherwise;

(3) Establish a cost-sharing arrangement under which each of the joint data developers would pay an initial cost of $100,000 or divide equally 25 percent of the estimated total cost, whichever is less, and pay the balance of the costs as needed on a pro rata basis, according to individual United States market share of the pesticide in question. Each participant's share would be determined by an independent auditor, based on the most recent available sales figures;

(4) Provide for suspension of the registration of any registrant that fails to enter into a joint data development arrangement for the products for which the additional data are requested, and make such arrangement enforceable in a Federal district court action instituted by any of the participants;

(5) Expand the scope of hearings provided for registrants who appeal such suspensions to allow consideration of whether the Administrator had a valid and reasonable basis for requiring the additional data. Now such hearings are restricted to considering whether the registrant has failed to take the action required to provide the requested data and whether the suspension order provides for disposition of existing stocks consistent with the Act. Other hearing provisions would be unchanged;

(6) Provide a 15-year period of protection for defensive data, following the date the data were submitted, during which time any party could obtain the right to use defensive data by joining the joint data development group and reimbursing the previous members of the group. The new member would pay a share of the total data cost in proportion to the number of persons sharing in such cost. The payment then would be distributed among the previous group members according to the amount of their contributions;

(7) Provide for data submitted by a registrant after September 30, 1978, to replace previous data that are deemed scientifically insufficient by generally accepted standards to be treated in the same way as defensive data requested by EPA, except that other registrants would be entitled, but not required, to participate in joint data development arrangements; and

(8) Provide a transition between current procedures and the new procedures of this amendment by giving persons, who had received notices from EPA asking for additional data to support existing registrations, the right to compel joint data development with other registrants currently performing testing. This option must be exercised within 120 days after enactment of the bill.

D. Formulator exemption

Amends exemption from the exclusivity and data compensation protection afforded the original data submitter in the case of formulators who purchase registered pesticides for the purpose of formulating an end-use product, as follows--

(1) To protect a registrant entitled to exclusivity for new-use data, provides that a formulator will be exempt from submitting such data only if he obtains the written permission of the data owner.

(2) Provides that if the formulator at any time ceases to use a registered pesticide as his source of supply for formulating purposes, the exemption would no longer apply and his registration would be suspended.

(3) Authorizes the Administrator to require a formulator to submit data concerning the safety of a changed use pattern for the end-use product if such data are not otherwise available.

Definitions

Defines terms used in the provisions relating to registration of pesticides as follows:

(1) "Pesticide product that contains a new active ingredient" -- to mean a pesticide product first registered after September 30, 1978 that contains an active ingredient not previously listed as of the date of the product's first registration, as an active ingredient in the ingredient statement of any registered pesticide product.

(2) "New use" -- to mean a change in the use pattern of a pesticide from nonfood to food use, food to nonfood use, outdoor to indoor use, indoor to outdoor use, terrestrial to aquatic use, aquatic to terrestrial use, nondomestic to domestic use, domestic to nondomestic use.

Defines "Use of a registered pesticide inconsistent with the label" to exclude using a registered pesticide for the formulation of an end-use product or repackaging a pesticide which is an end-use product, unless such use is prohibited by the labeling.

Guidelines

Requires that guidelines and modifications specifying information usually required to support the registration of a pesticide must be published in the Federal Register, and for the Administrator to provide for public comment in development of guidelines or modifications.

RPAR

Imposes statutory restrictions on the rebuttable presumption against registration (RPAR) procedures by requiring that at least 90 days prior to initiating a public interim administrative review process, the Administrator must notify all affected registrants of the risks upon which the proposed review will be based, and in finally determining whether to initiate a RPAR, the Administrator must consider any additional information submitted by a registrant, including data on human or environmental exposure. If after giving such notice the Administrator determines that it is not necessary to initiate a RPAR, then the Administrator shall make the reasons for the decision public.

Subjects to judicial review by the Federal courts of appeals, decisions by the Administrator to cancel or suspend the registration or use of a pesticide or not to restrict its classification following a RPAR procedure.

Restricted use classification

Clarifies that restrictions on pesticides classified for restricted use may include geographic, hydrogeologic, soil-specific or seasonal restrictions, as the Administrator may provide by regulation in which event any restrictions that apply to the applicator must also be noticed on the label.

Reregistration

Requires the Administrator to furnish registrants reasonable notice of when they must apply for reregistration of their products. If an application for reregistration of a product is not received within 90 days or a longer designated period after the notice has been received, the Administrator must issue an order to cancel the product's registration, and may include in the order provisions as to the continued sale and use of existing stocks of the product. Such orders are made final agency actions reviewable in the Federal district courts.

Cancellation and change in classification

Requires that in determining whether to issue a notice of cancellation or change in classification the Administrator must include, among the factors to be taken into account, the impact of the action on agricultural producers. The determination of the impact of such action on producers and the agricultural economy must be based on biologic and economic assessments, including any prepared by the Department of Agriculture. Authorizes the Administrator to publish in the Federal Register a notice of availability of an analysis of such impacts instead of publishing the entire analysis as now required.

Authorizes EPA to provide for phasing out a registration in addition to cancellation or a change in classification.

Protection of trade secrets and other information

Retains provisions in current law for protection of trade secrets and continues to except from that term health, safety and environmental protection data. Requires data submitter to identify trade secret information at the time of submission of new data and substantiate any such claims. As to data submitted prior to enactment of bill, provides that before disclosing any health and safety information (other than information which has already been made public or which the applicant has previously determined as not containing trade secret or commercial or financial information), the Administrator must afford the original data submitter a reasonable period of time, not to exceed 60 days to identify any portions of the information the applicant or registrant claims are trade secrets and to substantiate such claims. If no claim is made (or if the claim is not reasonably substantiated), the information would be made available as described below.

Disclosure of health and safety data

Amends section 10 of FIFRA concerning the disclosure of test data as follows:

(a) Regulations

Requires EPA to issue regulations governing disclosure of data under which all persons (except competitors and their employees) including employees of Federal and State agencies and scientific personnel representing employees of a pesticide producer or the employee's trade union may obtain a copy from EPA of health, safety and environmental data. Reasonable conditions would be imposed on further copying and transfer of data by such persons in order to safeguard the data and prevent the data from being disclosed to competitors in accordance with detailed principles and procedures governing disclosure on which EPA's regulations are to be based as set forth in the bill. Interim final regulations based on these principles would be promulgated and become effective within 60 days after enactment, without regard to the usual Congressional review procedures but subject to the requirement that at least 15 days before issuance copies of the proposed interim regulations must be provided to the Congressional Agriculture Committees. Final regulations would be promulgated thereafter in accordance with all procedural formalities.

(b) Health and safety data

Any information in a study concerning the health, safety or environmental effects of a product could be freely communicated and publicly discussed (with the exception of innovative methods and technology, discussed below), but a verbatim copy of a study could not be transferred to any pesticide producer or a person acting in its behalf.

(c) Innovative methods and technology

Certain innovative methods and technology which are not publicly known and provide a significant competitive advantage would receive an extra degree of protection for a maximum period of 5 years. This information would be made available to scientists and representatives acting on behalf of health, environmental or labor organizations who wish to conduct a peer review or replicate a study. The data would not otherwise be made available to the general public. The scientists and representatives would be free to communicate with each other and with EPA, and in judicial or administrative proceedings, concerning the innovative methods and technology. A summary of the data could be requested and the Scientific Advisory Panel could be required to review the data and issue recommendations to the Administrator that such information be made available to the public on the same basis as other health and safety data if necessary in the public interest. If the Administrator concurs, the data would be made so available.

The statement of principles makes clear that this is a very limited category of information, and that scientists and public interest representatives would be permitted to make use of the information in any reasonable manner in order to accomplish a peer review or replication of a study under reasonable conditions that prevent disclosure of the innovative methods and technology to the general public.

(d) Disclosure to pesticide producers

Extends the prohibition against disclosure by EPA of health and safety data to multinational pesticide producers to cover any employee or agent of any pesticide producer or to any other person who intends to disclose the data to any such person, unless that data submitter has consented to such disclosure or the data is needed in administrative adjudicatory hearings or court litigation.

(e) International agreements

Requires the Administrator not to make available for public inspection any pesticide information obtained from another government (or from an international organization of countries) if the government or international organization requires the Administrator not to disclose the information, and the Administrator could not otherwise obtain the information.

Authorizes EPA pursuant to an international agreement to disclose to foreign governments or an international organization of foreign governments data that may be disclosed under the Act. Disclosure is subject to an agreement that provides assurances the information would not be used to support a decision to grant a license for sale of a pesticide and subject to the condition that notice must be provided to the affected persons with an opportunity to comment before any such agreement is concluded.

(f) Civil action

Authorizes a data submitter to bring a court action for treble damages and punitive damages against a person who violates the provisions of section 10 by using data for a commercial use. This private action may be used against competitors who violate section 10, but not against health, environmental or labor groups.

Penalties

Expands the penalty section to provide--

(1) Civil penalties up to $100,000 and cancellation of registrations of any person who violates section 10 by using data for a commercial purpose, but limits civil penalties for violations that do not involve use of data in furtherance of a commercial purpose to temporary or permanent denial of further access to data; and

(2) Criminal penalties of not more than $100,000 or imprisonment for not more than one year, or both, as to any person granted access to health and safety data that in furtherance of a commercial purpose knowingly violates the data protection provisions or allows the data to be sold or otherwise made available in violation of this Act to any other person engaged in the production of a pesticide or any employee or agent thereof.

Unlawful acts

Prohibits as an unlawful act the discharge of any person or taking other adverse employment action because of that person (or any person acting pursuant to the employee's request) exercising rights under FIFRA or filing complaints concerning alleged violations of FIFRA.

Provides employee remedies for such violations comparable to those contained in the Toxic Substances Control Act. Authorizes filing of employee complaints with the Secretary of Labor, and for that Secretary to order the person committing any violation found to occur, after investigation, to take action to abate the violation, reinstate the employee to his former position with back pay, compensatory damages and where appropriate, exemplary damages. Any such orders may be appealed to the appropriate United States court of appeals.

Private rights of action

Authorizes any person claiming to be aggrieved by misuse of a pesticide to bring suit in a United States district court for equitable relief, but not for damages and attorney's fees.

Exports

Provides that information furnished to foreign governments as to the cancellation or suspension of the registration of a pesticide shall not include trade secret material.

State cooperation, aid, and training

Specifically authorizes separate appropriations of such sums as necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, of conducting applicator training programs, and of an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State. Funds would be distributed among the States on a formula basis, which in the case of applicator training programs would be developed cooperatively by EPA and USDA. The total amount authorized to be appropriated for these purposes could not exceed $4,000,000 for each fiscal year. If funds sufficient to pay 50 percent of the above-stated costs for any year are not appropriated, the share of each State and Indian tribe would be reduced in a like proportion in allocating available funds.

Authority of the States

Continues to authorize a State to regulate the sale or use of any federally registered pesticide or device so long as it does not permit a sale or use prohibited by EPA, but includes new provisions regarding the State's authority to request health and safety data in regulating such sale or use, as follows:

Specifically authorizes a State to obtain from EPA health and safety data previously submitted in support of the Federal registration.

With respect to special local concerns within the State--

(1) Authorizes a State to require submission of additional data, but the State must give the applicant written notice of the purpose and justification of the requirement.

(2) Provides that in the case of a pesticide utilized in the production of a commercial food, feed or fiber crop and any pesticide classified by EPA for restricted use, any applicant that wishes to contest the request for additional data is entirely subject to State law.

(3) Provides that in the case of a pesticide classified by EPA for nonrestricted use or general use (except for pesticides utilized in the production of a commercial food, feed or fiber crop) if the applicant wishes to contest the request for data involving special local concerns, the applicant may submit the request to the Administrator for review. If the Administrator determines that there is a Federal interest, the Administrator shall require the applicant to submit the additional data under the defensive data provisions of this Act. The Administrator may overrule or modify the State request for additional data if the Administrator determines that the request is arbitrary or capricious, or determines that there exist sources of comparable data that would be available to the State for the purposes of satisfying its request and so notifies the State. The State's determination that there is special

local concern is not subject to review by the Administrator but is subject to judicial review. A State may obtain judicial review of a decision by the Administrator to overrule or modify that State's data request. The applicant may seek judicial review of the determination of the State to require the data either before or after the matter has been submitted to the Administrator, but the Administrator would not be a party to any such action.

With respect to data that does not relate to special local concerns--

Provides that requests for any such data not previously submitted to EPA in support of the Federal registration would be reviewable by the Administrator. If the Administrator determines that there is a Federal interest, the Administrator would require the applicant to submit the additional data under the defensive data provisions of the Act. The Administrator may otherwise disapprove the request if the Administrator determines that the request is arbitrary or capricious or that there is no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. If the Administrator has not taken any action within 60 days or 15 days after receipt by the Administrator of any additional information that may be requested of the State, approval of the request by the State would be presumed. Any determination by the Administrator would be final and not subject to judicial review.

Provides time requirements for handling of applications for registration by a State as follows--

(1) Except as to applications for which a State has requested health and safety data that relate to special local concerns, requires a State to grant an application for a registration, pending further review, if the State has not affirmatively approved or disapproved the application within (i) 60 days or such lesser period as provided in State law, or (ii) if the application for registration involves a restricted use pesticide, or a general use pesticide utilized in the production of a commercial food crop, and the use is a new use within a State, or the pesticide contains a new active ingredient, within 120 days or such lesser period as may be provided by State law after receipt of the application accompanied by the data or a citation to data required by State law at the time of application.

(2) With respect to applications that relate to special local concerns, authorizes a State to prohibit or restrict the sale or use of the pesticide or device pending development, submission, and review of the health and safety data.

Prohibits a State from restricting the sale or use of a pesticide or device for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request.

Confers on the U.S. district courts jurisdiction to restrain violations of the above-stated time requirements.

Scientific Advisory Panel

Provides for all comments, evaluations, and recommendations of the advisory panel and the response of the Administrator to be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture.

Extends the scientific advisory panel to September 30, 1987.

Provides for members of the Scientific Advisory Panel to be appointed to staggered terms and represent the disciplines of toxicology, pathology, environmental biology and related sciences. If the list of nominees is unsatisfactory to the Administrator, he may request an additional set of nominees from the nominating entities.

State enforcement action

Extends from 30 days to 120 days the time within which a State must commence appropriate enforcement action after a complaint is filed, and provides for the investigation to commence within 30 days except that for complaints as to alleged injury to an agricultural worker, the State must begin appropriate field investigative action within 5 days after receipt of the complaint.

Safe working conditions

Requires the Administrator to promulgate regulations (if new regulations are found necessary) within one year after the date of enactment of the amendment to establish minimum field reentry standards, to develop methods of advising farmworkers and other persons holding, storing or applying pesticides in commercial production of food, feed and fiber crops of such standards, and to establish minimum requirements for storing, warehousing and disposal of pesticides. The provisions would not apply to persons covered by OSHA standards or regulations issued prior to enactment of the bill.

Extension of authorization for appropriations

Extends the authorization of appropriations through September 30, 1984 and provides a limitation in the authorization of $56,367,000 for fiscal year 1983, the same figure recommended by this Committee to the Budget Committee, and a ceiling for the next fiscal year of that amount increased by 6 percent.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 28, 1982

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Meeting: Public Hearing

Subject: Review of Commodity Supplemental Food Program

Bill Nos. none

The Domestic Marketing, Consumer Relations & Nutrition (Sub) Committee met in open Session at 10:00 am o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Richmond
Mr. Harkin
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Chappie
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Staff present:

Anita Brown, Staff Assistant
Carolyn Cheney, Subcommittee Staff Director
Nancy Chapman, Staff Assistant
Lynn Gallagher, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Mary Jarratt, Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture

2. Father William Cunningham, Director, and Ms. Eleanor Josaitis, Associate Director, Focus:Hope, Detroit, Michigan

   Mr. Ben Johnson, Director, Office of Social Apostolate, Archdiocese of New Orleans

3. Ms. Rhonda Kastan, Director, Louisville Commodities Supplemental Food Program, Louisville, Kentucky

Statements Filed:

April 28, 1982
Domestic Marketing, Consumer Relations
and Nutrition Subcommittee
Public Hearing
Review of Commodity Supplemental Food
Program
No bill

Chairman Richmond called the hearing to order at 10:00 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these minutes.

The Chairman adjourned the hearing at 11:20 a.m. subject to the call of the Chair.

Christine D. Abram
Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, April 29, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: Allow certain USDA employees to carry firearms; Amend Poultry Products Inspection Act; Development of WEB pipeline, S.D.; Reauthorization of FmHA farm and rural development loan programs

Bill Nos. H.R. 2035, H.R. 3863, H.R. 4347, H.R. 5831

The Full ~~(Sub)~~ Committee

met in Open Session at 10:07 am o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Richmond
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Huckaby
Mr. Glickman

Mr. Whitley
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Thomas
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.

Staff Present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Cristobal Aldrete, Special Counsel
Bernie Brenner, Press Secretary
Steve McCoy, Staff Economist
Bob Cashdollar, Subc. Staff Director
Roger Allbee, Minority Consultant
Gene Moos, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Dave Ebersole, Minority Consultant
Jim Johnson, Staff Assistant
Frank Winston, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

In audience to respond to questions from Members of the Committee:

Mr. Charles W. Shuman, Administrator, Farmers Home Administration, Department of Agriculture

Mr. James V. Loughran, Jr., Office of General Counsel, Department of Agriculture

Statements Filed:

Thursday, April 29, 1982
Full Committee
Business Meeting
Allow certain USDA employees to carry firearms in the performance of their duties; Amend Poultry Products Inspection Act; Development of the WEB pipeline in S.D; Reauthorization of FmHA farm and rural development loan programs
H.R. 2035, H.R. 3863, H.R. 4347, H.R. 5831

Action taken:

--Without objection, ordered H.R. 2035, as amended, reported to the House in the presence of a quorum.

--Without objection, agreed to Marlenee technical amendment to H.R. 3863.

--By a voice vote, ordered H.R. 3863, as amended, reported to the House in the presence of a quorum.

--Without objection, agreed to Daschle request to allow staff to add language, which had been omitted in transcribing, to his substitute amendment to H.R. 4347 agreed to.

--By a division vote of 8 yeas-12 nays, Coleman amendment to H.R. 4347 not agreed to.

--Without objection, Coleman amendment to Daschle substitute, relative to Secretary's report to Congress on the finding of studies and recommendations agreed to.

--Without objection, agreed to the second Coleman amendment relative to the Secretary's report.

--By a division vote of 14 yeas-9 nays, Coleman language to be included in the Committee Report agreed to.

--By a voice vote, H.R. 4347, as amended by the Daschle substitute, as amended, ordered reported to the House in the presence of a quorum.

--By a division vote of 13 yeas-2 nays, Huckaby amendment to the English amendment agreed to.

--By a voice vote, the English amendment, as amended, agreed to with the understanding that Mr. English and Mr. Marlenee would work with counsel regarding the placement of the word "royalty" in the amendment.

--By a voice vote, Findley amendment relative to business and industrial loan equity requirement not agreed to.

--Without objection, agreed to language added by Mr. Bedell to his amendment, relative to guaranteeing loans made by states.

Thursday, April 29, 1982
Full Committee
Business Meeting
Allow certain USDA employees to carry firearms in the performance of their duties; Amend Poultry Products Inspection Act; Development of the WEB pipeline in S.D; Reauthorization of FmHA farm and rural development loan programs
H.R. 2035, H.R. 3863, H.R. 4347, H.R. 5831

Action taken (continued)

--By a division vote of 9 yeas-1 nay, agreed to Bedell amendment, as amended.

--Without objection, agreed to English unanimous consent request to incorporate additional language to his amendment previously adopted.

Chairman de la Garza called the meeting to order and informed the Members that while the meeting had been called primarily to consider H.R. 5831, reauthorization of FmHA farm and rural development loan programs, there were a couple of bills which were reported from subcommittee without opposition, and which he would like to call up for full Committee consideration.

The Chairman called up H.R. 2035, relative to allowing certain Department of Agriculture employees to carry firearms in the performance of their duties as animal quarantine enforcement officers. A copy of the bill as reported to the full Committee is attached. In the absence of the Chairman of the Subcommittee which reported the bill, Mr. de la Garza explained its provisions. Mr. Stenholm moved to report the bill, as amended, to the House. There being no objection, H.R. 2035, amended, was ordered reported to the House in the presence of a quorum.

Chairman de la Garza next called up H.R. 3863, a bill to amend the Poultry Products Inspection Act relative to the inspection of turkeys. A copy of the bill as reported to the full Committee, and a copy of changes in existing law are attached. Mr. Marlenee, author of the bill, was recognized to explain its provisions. After his statement he offered a technical conforming amendment (attached), which was agreed to without objection. Mr. Marlenee moved to report the bill, as amended, to the House. The Chairman asked for a voice vote and the ayes prevailed. Thus, H.R. 3863 was ordered reported in the presence of a quorum.

The Chairman next called up H.R. 4347, development of the WEB pipeline in South Dakota. He informed the Members he understood that Mr. Daschle and Mr. Roberts of South Dakota had reached an agreement on language of the bill which had been referred back to subcommittee (see minutes of full Committee meeting, March 3, 1982).

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Full Committee
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Allow certain USDA employees to
carry firearms in the performance
of their duties; Amend Poultry Products Inspection Act; Development
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deveopment loan programs
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Mr. Daschle was recognized to offer an amendment in the nature of a substitute (attached). A copy of H.R. 4347 as reported from the Subcommittee on Conservation, Credit, and Rural Development is attached to minutes of the March 3, 1982 full Committee meeting.

After Mr. Daschle's statement he asked unanimous consent to have counsel add words that had been omitted during the transcribing of the amendment (corrections are attached), and there was no objection. Mr. Roberts of South Dakota also made remarks.

Mr. Coleman was recognized to offer an amendment (attached) relative to impacts of studies proposed by the substitute amendment. After his explanation, general discussion followed. There being no further debate, the Chairman asked for a division vote. Thus, by a division vote of 8 yeas-12 nays, the amendment was not agreed to.

Mr. Coleman was recognized to offer a second amendment as follows:

> on page 2, line 17 of the substitute amendment, add a period after the word "unit" and strike remainder of the paragraph

Mr. Coleman explained the purpose of his amendment, after which Mr. Daschle informed the Members that he and Mr. Roberts, South Dakota, would accept this amendment, and it was agreed to without objection.

Mr. Coleman indicated his desire to insert some language in the Committee Report. Discussion occurred on whether additional views would be in order. Mr. Coleman then offered as report language the essence of subparagraph (4) of his amendment (see above), and discussion followed. The CHairman asked for a vote and by a division vote of 14 yeas-9 nays, the Coleman motion was agreed to. There being no further amendments, the Chairman asked for a voice vote on the bill as amended by the substitute amendment, as amended. The ayes prevailed and H.R. 4347 was ordered reported, amended, to the House in the presence of a quorum. The Chairman requested counsel to work with the Members from South Dakota and Mr. Coleman on the suggested report language.

The Chairman called up H.R. 5831 for consideration and recognized Mr. Wampler for remarks. Mr. Jones of Tennessee and Mr. Jeffords also made remarks. A Committee Print of the bill as reported to the full Committee and a brief explanation are attached.

Thursday, April 29, 1982
Full Committee
Business Meeting
Allow certain USDA employees to
 carry firearms in the performance
 of their duties; Amend Poultry Products Inspection Act; Development
 of the WEB pipeline in S.D; Reauthorization of FmHA farm and rural
 development loan programs
H.R. 2035, H.R. 3863, H.R. 4347
 H.R. 5831

Mr. Jones asked that the bill be considered as read and open for amendment at any point and there was no objection.

Mr. English was recognized to offer an amendment (attached) relative to applying proceeds from oil and gas sales/leases to the front end of FmHA loans. He noted the first line should read "page 8"; not "page 7". After he explained his amendment, Mr. Marlenee informed the Members he had planned to offer an amendment regarding royalties from the sale of oil and gas leases which he would not offer, but would like to incorporate language into the English amendment. Discussion occurred on appropriate language for the Marlenee amendment.

Mr. Huckaby was recognized to offer an amendment after the Chairman agreed to defer the Marlenee proposal. The Huckaby amendment is as follows:

> on the next to the last line of the English amendment, after the word "both" add "or other minerals"

Mr. Huckaby explained that his amendment would allow farmers involved in coal or other minerals to have the same protection as those involved in oil and gas leases. After a brief discussion, the Chairman asked for a voice vote. He announced the chair was in doubt as to the outcome and requested a division vote. Thus, by a vote of 13 yeas-2 nays, the Huckaby amendment was agreed to.

Discussion resumed on the English/Marlenee amendment. Mr. English suggested the Committee agree with the objective of Mr. Marlenee's proposal and consult with counsel for appropriate language. There being no objection to his suggestion, the Chairman asked for a voice vote and the ayes prevailed. Thus, the English amendment, as amended by Marlenee language to be perfected by counsel, was agreed to.

Mr. Findley was recognized to offer an amendment to the business and industrial loan language on page 8 of the Committee Print; to change the figure of "20" to "25" on line 13. General discussion followed. The Chairman asked for a voice vote and the nays prevailed. Thus, the Findley amendment was not agreed to.

The Chairman recognized Mr. Bedell to offer an amendment (attached) relative to guaranteeing loans made by states. After a general discussion, Mr. Bedell asked to add the following language at the end of his amendment:

Thursday, April 29, 1982
Full Committee
Business Meeting
Allow certain USDA employees to carry firearms in the performance of their duties; Amend Poultry Products Inspection Act; Development of the WEB pipeline in S.D; Reauthorization of FmHA farm and rural development loan programs
H.R. 2035, H.R. 3863, H.R. 4347
H.R. 5831

> strike the period on the last line and add "such loans to be limited to Section 303, Section A(1)"

After a brief discussion, Mr. Bedell's proposal was agreed to without objection. The Chairman asked for a division vote on the Bedell amendment, as amended, and it was agreed to by a division vote of 9 yeas-1 nay.

Mr. English asked unanimous consent to add the following language to the amendment he previously offered as follows:

> on the third line from the bottom, after the word "gas", add "or proceeds from royalties generated from leases of oil or gas

There being no objection to incorporating this language in the amendment previously agreed to, counsel was instructed to insert the words accordingly.

Mr. Albosta was recognized to offer an amendment relative to emergency disaster loans. Inasmuch as no copies of the amendment were available, Mr. Albosta withdrew the amendment.

Mr. Volkmer was recognized to offer an amendment (attached) relative to securing loans with mineral rights under the land. General discussion followed, after which Mr. Volkmer, without objection, withdrew his amendment to work out satisfactory language to be offered when the bill is on the House Floor.

Mr. Volkmer offered a second amendment (attached) relative to mortgaged livestock. A general discussion followed.

The Chairman informed the Members there was a vote on the Floor of the House and he had ascertained it might not be possible to have a quorum present for an afternoon meeting. Whereupon, the Committee adjourned at 12:07 p.m., to reconvene at 10:00 a.m. on Tuesday, May 4, 1982, when the pending business would be the Volkmer amendment to H.R. 5831.

Peggy Pecore
Peggy Pecore

COMMITTEE PRINT

(As reported by the Subcommittee on Department
Operations, Research, and Foreign Agriculture
on March 25, 1982)

97TH CONGRESS
1ST SESSION

H. R. 2035

To authorize certain employees of the Department of Agriculture to carry firearms in the performance of their duties.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1981

Mr. KAZEN introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To authorize certain employees of the Department of Agriculture to carry firearms in the performance of their duties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That any employee of the Department of Agriculture designated by the Secretary of Agriculture—~~

~~(1) to carry out any law or regulation, or~~

~~(2) to perform any function in connection with—~~

~~(A) any Federal or State program, or~~

~~(B) any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia,~~

~~for the control, eradication, or prevention of the introduction or dissemination of animal diseases may carry a firearm, in accordance with rules issued by the Secretary of Agriculture, while engaged in the performance of such employee's official duties.~~

That employees of the United States Department of Agriculture designated by the Secretary of Agriculture and the Attorney General of the United States--

(1) to carry out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination of communicable disease of livestock or poultry into the United States, or

(2) to perform any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary,

may carry a firearm and use a firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary of Agriculture and the Attorney General of the United States, while such employees are engaged in the performance of the employees' official duties.

And amend the title to read as follows: To authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection.

97TH CONGRESS
1ST SESSION
H. R. 3863

To amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1981

Mr. MARLENEE introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15(c)(3) of the Poultry Products Inspection Act (21 U.S.C. 464(c)(3)) is amended by striking out "slaughters" and all that follows and inserting in lieu thereof the following:

", in the current calendar year—

Best Available Copy

"(A) slaughters or processes the products of more than 20,000 poultry; or

"(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person claiming exemption under any of such subparagraphs.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this Act.".

○

(3) No exemption under subparagraph (1) (C) or (D) or subparagraph (2) shall apply to any poultry producer or other person who slaughters or processes the products of more than 5,000 turkeys or an equivalent number of poultry of all species in the current calendar year (four birds of other species being deemed the equivalent of one turkey).

, in the current calendar year—

(A) slaughters or processes the products of more than 20,000 poultry; or

"(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person claiming exemption under any of such subparagraphs.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this Act.

Public Law 90-492 -- August 18, 1968

POULTRY PRODUCTS INSPECTION ACT

* * * * * * *

Sec. 15....(21 U.S.C. 464)

Exemptions.

(c)(1) The Secretary shall, by regulation and under such conditions, including sanitary standards, practices, and procedures, as he may prescribe, exempt from specific provisions of this Act—

(A) the slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees;

(B) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food;

(C) the slaughtering and processing of poultry products in any State or Territory or the District of Columbia by any poultry producer on his own premises with respect to sound and healthy poultry raised on his premises and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean, and fit for human food when so distributed; and

(D) the slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of the processor, and if they are not otherwise misbranded and are sound, clean, and fit for human food when distributed by such processor.

The exemptions provided for in clauses (C) and (D) above shall not apply if the poultry producer or other person engages in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in such clauses.

"(2) In addition to the specific exemptions provided herein, the Secretary shall, when he determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provide by regulation, consistent with subparagraph (3), for the exemption of the operation and products of small enterprises (including poultry producers), not exempted under subparagraph (1), which are engaged in any State or Territory or the District of Columbia in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof solely for distribution within such jurisdiction, from such provisions of this Act as he deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he shall prescribe to effectuate the purposes of this Act.

(3) No exemption under subparagraph (1) (C) or (D) or subparagraph (2) shall apply to any poultry producer or other person who slaughters or processes the products of more than 5,000 turkeys or an equivalent number of poultry of all species in the current calendar year (four birds of other species being deemed the equivalent of one turkey).

, in the current calendar year—

(A) slaughters or processes the products of more than 20,000 poultry; or

"(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person claiming exemption under any of such subparagraphs.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this Act.

PROPOSED AMENDMENT Mr. Marlenee.

That section 15(c)(4) of the Poultry Products Inspection Act (21 U.S.C. 464(c)(4)) is amended by striking out all of clause lettered (i) and inserting in lieu thereof the following:

"(i) such producers slaughter not more than 1,000 poultry during the calendar year for which this exemption is being determined;".

(4) The provisions of this Act shall not apply to poultry producers with respect to poultry of their own raising on their own farms if (i) such producers slaughter not more than 250 turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined (four birds of other species being deemed the equivalent of one turkey); (ii) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms; and (iii) none of such poultry moves in commerce (as defined in section 4(a) of this Act).

EXPLANATION OF AMENDMENT

The amendment conforms section 15(c)(4) to section 15(c)(3) by removing the phrase "four birds of other species being deemed the equivalent of one turkey" and simply using the phrase "1000 poultry".

HR 4347...Amendment in the form of a substitute, offered by Congressman Daschle before the House Agriculture Committee, April 29, 1982

Strike out all language following the enactment clause, and substitute the following...(see attachment)

The WEB Rural Water Development Project, authorized by section 9 of Public Law 96-355, is reauthorized subject to the following changes in such section:

(1) the proviso clauses contained in subsection (b) shall not apply to the WEB Rural Water Development Project;

(2) the first sentence of subsection (d) is stricken; and

(3) the first sentence of subsection (e) is stricken and the following sentence is inserted in lieu thereof: "The Secretary of Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section."

The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to proceed with the development of the WEB Rural Water Development Project, consistent with the terms of section 9(e) of Public Law 96-355, as amended by section 1(a)(3) of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

Sec. 2 (a) the Secretary is authorized, in cooperation with the State of South Dakota, to conduct studies pursuant to this Act which shall include consideration of:

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division,

Pick-Sloan Missouri River basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri River Basin program, North Dakota; and

(3) a modifird plan of development for the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri River basin program, South Dakota, including alternative lands or reduced acreages.

(b) In formulating his recommendations to Congress the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944.

(c) The Secretary shall report to Congress the findings of the studies, along with his recommendations for disposition of the Oahe unit, initial stage, for development of the Pollock-Herreid unit, and for Federal involvement in other projects proposed by the State.

(d) The Secretary may contract with the State to carry out the studies authorized by this section.

(e) The studies performed and the reports made under this section shall be of reconnaissance, appraisal, or feasibility grade as is appropriate to determine whether further action on the development of the Secretary's recommendations is warranted.

Sec 3(a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe Unit, Initial Stage: Provided, however, that such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown Irrigation Districts; and provided further, that any and all funds accumulated by the Oahe Conservancy Subdistrict under the Master Contract shall be refunded to or otherwise expended for the benefit of the taxpayers of the subdistrict; and that any repayment obligation existing at the time of cancellation of the Master and Security Contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri Basin Program to be assumed by the beneficiaries of any future project which utilizes the Oahe Unit facilities for which the repayment obligation was incurred.

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East Canals; Cresbard and Byron Dams and Reservoirs; James and Byron Pumping Plants; and associated features; shall not be constructed by the Secretary without further action by the Congress; but nothing to recommend development of other features, based upon the study authorized by Section 2(a)(1) of this Act.

Sec. 4. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Missouri River Basin program pumping power to new irrigation projects constructed by Indian tribes or by public entities organized under State law which have been authorized by the Flood Control Act of 1944 to receive such power. Such power shall be made available to the Grass Rope Unit, Pick-Sloan Missouri Basin program. In recognition of the legislative intent of the Pick-Sloan Missouri River Basin Program to provide project power to financially sound irrigation development, such power may also be made available at the Secreatary's discretion for other such Federal or cooperative Federal/non-Federal irrigation projects, if requested by the Governor or an Indian tribe, provided that the Secretary determines the project to be economically and financially feasible and in compliance with applicable environmental laws, and submits such proposals to Congress subject to disapproval by joint resolution within 90 days.

Sec. 5. Effective upon passage of this Act, there are authorized to be appropriated such funds as may be necessary to carry out the provisions of this Act.

CORRECTIONS TO DASCHLE SUBSTITUTE FOR HR 4347..... due to transcribing errors, some language was inadvertantly left out in the copy of the substitute you have before you. These additions should be made.

Page 1. , line 11, after "Development Act", add "under the terms and conditions of the Consolidated Farm and Rural Development Act"

Page 3 line 22, after"but nothing," add "in this Act shall be deemed to limit the authority of the Secretary".

Finally, in keeping with the requirements of the Budget Act, Page 4, line 17 should be changed by striking "upon passage of this Act" and inserting in lieu therof "October 1, 1982."

AMENDMENT OFFERED BY MR. COLEMAN
TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. DASCHLE OF SOUTH DAKOTA

Page 1, line 23, insert "only" after "include".

Page 2, line 4, strike out "and".

Page 2, line 8, strike out the period and insert in lieu thereof "; and".

Page 2, strike out line 9 and all that follows through line 18, and insert in lieu thereof the following:

(4)the impact of the alternative uses described in paragraph (1), the future uses described in paragraph (2), and the modified plan described in paragraph (3) on the availability of water for use or consumption in other States in the Missouri River Basin.

(b) The Secretary shall submit a report to the Congress containing the findings of each study conducted under subsection (a) and the recommendations of the Secretary regarding---

(1) the disposition of the Oahe unit, initial stage;
(2) the future use of the Garrison unit; and
(3) the development of the Pollock-Herreid unit;

which involve only irrigation in, and domestic, municipal, or rural water development for consumption in, the State of South Dakota. In formulating such recommendations, the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri River basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944.

Page 2, line 19, strike out "(d)" and insert in lieu thereof "(c)".

Page 2, line 21, strike out "(e)" and insert in lieu thereof "(d)".

[COMMITTEE PRINT]

APRIL 19, 1982

(As ordered reported by the Subcommittee on Conservation, Credit, and Rural Development on March 24, 1982)

97TH CONGRESS
2D SESSION

H. R. 5831

To provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1982

Mr. JONES of Tennessee (for himself and Mr. JEFFORDS) introduced the following bill; which was referred to the Committee on Agriculture

[Strike out all after the enacting clause and insert the part printed in italic]

[For complete text of original bill, see H.R. 5831 as introduced on March 15, 1982]

A BILL

To provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by—

(1) in paragraph (1), inserting the designation "A" before the existing text thereof, and adding at the end thereof a new subparagraph as follows:

"(B) The Secretary is authorized to make a grant to any association which received a loan made or insured under subparagraph (A) to finance a water or waste disposal facility if—

"(i) such association is unable to repay such loan without suffering great economic hardship, and

"(ii) the inability to repay such loan results from an unanticipated diminution in the aggregate amount of fees or revenue received by such association, caused by a substantial decline in population or commercial activity in the area served by such facility.

The proceeds of such grant may be used only to repay such loan.";

(2) adding at the end of paragraph (2) the following: "The Secretary shall fix the grant rate for each project in conformity with regulations promulgated by the Secretary which shall provide for a graduated scale of grant rates prescribing higher rates for projects in communities having lower community population

and income levels: Provided, That for grants for projects in communities having a population of fifteen hundred or less and a median community income level below 80 per centum of the statewide nonmetropolitan median family income, the grant rate shall be the maximum rate permitted under this paragraph.";

(3) amending paragraph (7) to read as follows:

"(7) As used in this title, the terms 'rural' and 'rural area' shall not include any area in any city or town having a population in excess of ten thousand, except that (A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town having a population not in excess of twenty thousand; and (B) for purposes of loans and grants for private business enterprises under sections 304(b), 310B, and 312 (b), (c), and (d), the terms 'rural' and 'rural area' may include all territory of a State that is not within the outer boundary of any city having a population in excess of twenty-five thousand and its immediately adjacent urbanized areas as determined by the Secretary of Agriculture according to the latest decennial census of the United States: Provided, That special consideration for such loans and grants shall be given to areas other than cities having a population in excess of ten thousand."; and

(4) adding at the end thereof new paragraphs (16), (17), and (18) as follows:

"(16) In providing financial assistance for water and waste disposal facilities under this section, the Secretary shall utilize a project selection system to determine which of the applicants for assistance meeting the basic requirements of this section shall be selected to receive assistance. Such project selection system shall provide for the objective and uniform comparision of requests for assistance (in the form of preapplications) on the basis of relative need as reflected by (A) low community median income; (B) small population; and (C) severity of health hazards resulting from inadequate provision for the reliable supply of potable water or from inadequate means of disposing of waste. For purposes of the project selection system, each of these three factors shall be weighted equally.

"(17)(A) The Secretary is authorized to make payments to associations described in paragraph (1) of this subsection which are reasonably likely to receive financial assistance under paragraph (1) or paragraph (2) of this subsection for community water and waste disposal facilities, for predevelopment costs incurred in connection with the planning and design of such facilities. Such costs may include the costs of drilling test wells and of preparing alternative engineering designs to determine the most feasible and economical method

to improve the water supply or waste disposal system of the community involved.

"(B)(i) The amount of any payment received under subparagraph (A) with respect to a project by an association which receives, before the expiration of the five-year period beginning on the date such payment is received, a loan under paragraph (1) or a grant under paragraph (2) of this subsection to finance such project shall be treated as part of the amount of such loan or the amount of such grant, as the case may be; and

"(ii) the amount of any payment received under subparagraph (A) with respect to a project by an association which does not receive, before the expiration of the five-year period beginning on the date such payment is received, a loan under paragraph (1) or a grant under paragraph (2) of this subsection to finance such project shall be repaid to the Secretary as if such payment were a loan made under paragraph (1) unless the Secretary waives the repayment requirement with respect to all or part of such amount.

"(C) The total of payments made by the Secretary under this paragraph for any fiscal year shall not be less than 5 per centum of any amount appropriated to carry out paragraph (2) of this subsection for the fiscal year unless the applications for payments received by the Secretary from eli-

gible associations for the fiscal year total less than 5 per centum of such amount.

"(D) For purposes of section 346, each payment made under subparagraph (A) shall be deemed to be a loan unless and until such payment is offset against a grant or the Secretary waives the repayment of such payment.

"(18)(A) The Secretary is authorized to make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (17) of this subsection technical assistance and training—

"(i) to identify, and evaluate alternative solutions to, problems relating to the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

"(ii) to prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

"(iii) to improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

"(B) In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations which have experience in providing

the technical assistance and training described in such subparagraph to such associations serving rural areas in which residents have low incomes and in which water supply systems or waste facilities are unhealthful.

"(C) The total of grants made by the Secretary under this paragraph for any fiscal year shall not be less than 2 per centum of any amount appropriated to carry out paragraph (2) of this subsection for the fiscal year unless the applications for grants received by the Secretary from eligible associations for the fiscal year total less than 2 per centum of such amount.".

SEC. 2. Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927 (a)(3)(A)) is amended by—

(1) striking out "the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)" and inserting in lieu thereof "80 per centum of the statewide nonmetropolitan median family income"; and

(2) inserting before the period at the end thereof the following: "; and not in excess of 7 per centum per annum on loans for such facilities which do not qualify for the 5 per centum per annum interest rate but are located in areas where the median family income of the

persons to be served by the facilities is between 80 per centum and 100 per centum (both figures inclusive) of the statewide nonmetropolitan median family income".

SEC. 3. Section 310B(d)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)(5)) is amended to read as follows:

"(5) No loan commitment issued under this section, section 304, or section 312 shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant of up to, but not exceeding, 20 per centum. The Secretary shall permit an applicant to make the required equity investment in the form of cash, tangible earning assets at book value, or appraisal surplus, or any combination thereof.".

SEC. 4. Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by adding at the end thereof new subsections (c) and (d) as follows:

"(c) The Secretary shall permit a borrower having an outstanding loan made under this subtitle who has adequate equity to protect the loan to use proceeds from the sale of property securing the loan to make prospective scheduled pay-

ments on the loan: Provided, That such sale does not impair the borrower's ability to continue the borrower's operation.

"(d) The Secretary shall permit a borrower having an outstanding loan made under this subtitle to use proceeds from the sale or lease of oil or gas or both located under the property securing the loan to make prospective scheduled payments on the loan.".

SEC. 5. Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended by—

(1) inserting the designation "(a)" before the existing text thereof;

(2) in the second sentence, striking out "section" and inserting in lieu thereof "subsection"; and

(3) adding at the end thereof new subsections (b), (c), (d), and (e) as follows:

"(b) During the period beginning with the date of enactment of this subsection and ending September 30, 1983, the Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, and shall forgo foreclosure of any such loan upon a showing by the borrower that

the borrower (1) has demonstrated good management practices, (2) due to circumstances beyond the borrower's control is temporarily unable to continue making payment on such principal and interest then due without unduly impairing the standard of living of the borrower, and (3) has a reasonable chance of repayment of the loan after the deferral of principal and interest or the forgoing of foreclosure. Interest that accrues during the deferral period on any loan deferred under the provisions of this subsection shall bear no interest during or after such period. The foregoing provisions of this subsection shall be limited to borrowers who own or operate family-size farms, as certified by the county committee in accordance with section 333(b) of this Act. The Secretary shall promulgate regulations which provide (1) for notification of all farm borrowers of the provisions of this subsection and all other servicing alternatives offered by the Secretary; (2) clear procedures by which borrowers may petition the Secretary for relief under such provisions and alternatives; and (3) for appeal within the Department of Agriculture from a decision which denies relief under such provisions and alternatives.

"(c) With respect to outstanding loans made, insured, or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, and economic emergency purposes under the Emergency Agricultural Credit Ad-

justment Act of 1978, the Secretary is directed, during any period in which the agricultural sector in any State is suffering economic distress, to defer principal and interest and forgo foreclosure within the State. For purposes of this subsection, a 'period in which the agricultural sector in any State is suffering economic distress' is a period (1) beginning on the date on which the total number of forced liquidations and foreclosures, within a given fiscal year, of outstanding loans of the types described in the preceding sentence in the State exceeds 1 per centum of all of the outstanding loans of such types in the State, and (2) ending twelve calendar months thereafter. Interest that accrues during the deferral period on any loan deferred under the provisions of this subsection shall bear no interest during or after such period.

"(d) Upon the expiration of any period of deferral of payment of principal and interest and forgoing of foreclosure by the Secretary under subsections (b) or (c) of this section, the Secretary shall make available to the borrower, upon the borrower's request, procedures whereby the loan can be consolidated, rescheduled, or reamortized to provide equitable repayment terms consistent with the borrower's farm and financial situation, and any loan so consolidated, rescheduled, or reamortized shall bear interest at a rate not in excess of the rate of interest on the original loan.

"(e) Any loan consolidated, rescheduled, or reamortized under any authority of the Secretary other than pursuant to subsections (b) and (c) of this section shall, notwithstanding any other provision of this title, bear interest for the balance of the term of the original loan at a rate not in excess of the rate of interest on the original loan.".

SEC. 6. Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof a new subsection (e) as follows:

"(e) Notwithstanding the provisions of subsection (a) of this section—

"(1) loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,000,000,000;

"(B) operating loans, $1,510,000,000; and

"(C) emergency loans in amounts necessary to meet the needs resulting from natural disasters.

Not less than 25 per centum of the insured loans authorized for farm ownership purposes and not less than 25 per centum of the insured loans authorized for farm operating purposes shall be for low-income, limited-resource applicants.

"(2) loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $500,000,000;

"(B) industrial development loans, $1,000,000,000: Provided, That such loans may be insured, or made to be sold and insured, or guaranteed only with respect to applicants which, in the case of insured loans, are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time, and, in the case of guaranteed loans, are unable, without a guarantee, to obtain sufficient credit from commercial lending institutions at reasonable rates and terms, taking such factors into consideration; and

"(C) insured community facility loans, $300,000,000.".

Sec. 7. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 note) is amended by adding at the end thereof a new section 349 as follows:

"REPORTS

"Sec. 349. (a) Not later than one month following the end of each calendar quarter beginning with the quarter ending June 30, 1982, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the information specified below with respect to loans made, insured, or guaranteed for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, and economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978:

"(1) the estimated number and dollar value of loans designated delinquent;

"(2) the estimated number and dollar value of loans voluntarily liquidated;

"(3) the estimated number and dollar value of loans accelerated;

"(4) the estimated number and dollar value of loans in the process of foreclosure;

"(5) the estimated number and dollar value of loans foreclosed; and

"(6) the estimated number and dollar value of loans on which any other adverse action was taken.

"(b) Each report submitted under this section shall provide the required information on a State-by-State basis and shall list such information separately for each type of loan specified in subsection (a), and within each such type, separately for loans made or insured and for loans guaranteed, and separately for regular loans and for loans made to low-income, limited-resource borrowers.

"(c) In preparing the format of the report to be submitted under this section, the Secretary shall closely consult on a continuing basis with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, to ensure a common understanding of the terms employed in this section.

"(d) For purposes of this section—

"(1) 'loans designated delinquent' means loans with respect to which (i) the amount repaid is more than $10 less than the amount due under the repayment schedule, or (ii) any payment is not made within fifteen days after the date the payment is due under the repayment schedule;

"(2) 'loans voluntarily liquidated' means loans with respect to which the borrower, on the borrower's own volition, or under threat of foreclosure and with the Secretary's agreement, has sold property securing the loan and applied the proceeds against the loan indebtedness;

"(3) 'loans accelerated' means loans with respect to which the borrower is notified by the Secretary that, because of a default, all principal and interest under the loan are due and payable;

"(4) 'loans in the process of foreclosure' means loans which have been referred by the Secretary to the Office of the General Counsel of the Department of Agriculture for initiation of action to foreclose the loans and such action is not completed;

"(5) 'loans foreclosed' means loans with respect to which legal proceedings have been concluded to sell the property securing the loan, or the property securing the loans has been sold by the Secretary under the terms of the loan agreement; and

"(6) 'loans on which other adverse action was taken' means loans with respect to which the Secretary has, because of delinquency or default, taken an action against the borrower other than those described in any other paragraph of this subsection.

"(e) The provisions of this section shall be effective through September 30, 1985.".

SEC. 8. (a) The amendments made by section 1(1) of this Act shall become effective on October 1, 1982, and shall apply to any association described in section 306(a)(1)(B) of the Consolidated Farm and Rural Development Act, as added by section 1(1) of this Act, without regard to whether the loan involved was received by such association before such effective date.

(b) The amendments made by section 1(4) of this Act which added new paragraphs (17) and (18) to section 306(a) of the Consolidated Farm and Rural Development Act shall become effective on October 1, 1982.

(c) All other amendments made by this Act shall become effective upon the date of enactment.

Amend the title so as to read: "A bill to amend the Consolidated Farm and Rural Development Act to provide lending limits for fiscal years 1983, 1984, and 1985, and for other purposes.".

○

BRIEF EXPLANATION OF H.R. 5831, AS AMENDED AND ORDERED REPORTED BY THE SUBCOMMITTEE ON CONSERVATION, CREDIT, AND RURAL DEVELOPMENT

H.R. 5831, as introduced by Mr. Jones and Mr. Jeffords, contained provisions which would reauthorize the lending levels for Farmers Home Administration programs under the Consolidated Farm and Rural Development Act (the Consolidated Act). While the Subcommittee adopted the reauthorization provisions as proposed in the bill, it added a number of other amendments to the Consolidated Act. The Committee Print which has been prepared for use by the Committee contains all of such amendments.

Water and Waste Disposal Facilities

Several amendments would change provisions of the Consolidated Act affecting loans and grants for water and waste disposal facilities as follows:

(1) Authorize grants to borrowers to be used solely for repaying loans in cases where repayment cannot be made without great hardship due to reduction in revenues resulting from declines in population or commercial activity in areas served by the facility (Page 2, line 4);

(2) Direct the Secretary to establish a graduated scale of grant rates reflecting higher rates for communities with lower population and income levels and fix the maximum grant rate (75 percent of costs) for projects in communities with a population of 1,500 or less and an income level below 85 percent of the Statewide nonmetropolitan median family income (Page 2, line 20);

(3) Direct the Secretary to establish a project selection system for choosing among applicants for loans and grants, the system to give equal weight to factors of (i) low community income, (ii) small population, and (iii) health hazards resulting from lack of potable water or inadequate waste disposal (Page 4, line 3);

(4) Authorize payments to associations likely to receive grants or loans to assist them in meeting predevelopment costs of facilities (Page 4, line 17);

(5) Authorize grants to private nonprofit organizations for the purpose of providing technical assistance and training to associations likely to receive loans or grants (Page 6, line 7);

(6) Change the standard for low-income areas eligible for 5 percent loans from those having an income level below the Federal poverty line to those having an income level below 80 percent of the Statewide nonmetropolitan median family income; (Page 7, line 15); and

(7) Establish a 7 percent maximum loan interest rate for borrowers which do not qualify for 5 percent loans but which have an income level of between 80 and 100 percent of the Statewide nonmetropolitan median family income (Page 7, line 21).

Business and Industrial Loans

Two amendments would change provisions of the Consolidated Act affecting business and industrial loans and grants as follows:

(1) Limit financial assistance to areas outside cities having a population of 25,000 or more (as compared with 50,000 or more under current law), and provide for special consideration for areas outside cities having a population of more than 10,000 (as compared with 25,000 under current law (Page 3, line 8);

(2) Limit the amount of equity which the Secretary may require a borrower to invest in an enterprise to 20 percent (Page 8, line 7); and

(3) Require the Secretary to allow applicants to make the required investment in the form of cash, tangible earning assets at book value, or appraisal surplus, or any combination of such forms (Page 8, line 13).

Farm Operating Loans

Two amendments would add new provisions to the section of the Consolidated Act governing farm operating loans as follows:

(1) Require the Secretary to allow a borrower who has adequate equity to protect the loan to use proceeds of the sale of loan security to make prospective scheduled loan payments if the sale does not impair the borrower's ability to continue the operation (Page 8, line 22); and

(2) Require the Secretary to allow a borrower to use the proceeds from the sale or lease of oil or gas located under the loan security property to make prospective scheduled payments on the loan (Page 9, line 3).

Moratoriums

Amendments would add new provisions to the Consolidated Act relating to deferral of payments on and foreclosures of farm ownership, farm operating, disaster emergency and economic emergency loans as follows:

(1) Require the Secretary, through September 30, 1983, to allow a borrower who is the owner or operator of a family-size farm, at his request, to defer payments of principal and interest, and to forego foreclosure, if the borrower shows that he has used good management practices, his inability to pay is due to circumstances beyond his control, and he has a reasonable chance of repayment after the deferral. Also requires the Secretary to notify borrowers of these provisions, and provide procedures for petitioning for relief under them and taking administrative appeals from adverse decisions (Page 9, line 16).

(2) Require the Secretary to defer payments on principal and interest and forego foreclosure on loans in a State for one year from the date when the number of forced liquidations and foreclosures, within a fiscal year, exceed 1 percent of the loans outstanding in the State (Page 10, line 21); and

(3) Require the Secretary, after deferrals under both of the moratorium amendments, to inform borrowers, at their request, as to how the loans can be consolidated, rescheduled, or reamortized to provide equitable repayment terms, and limit interest rates on such loans to the interest rates on the original loans (Page 11, line 15).

Interest on Consolidated Loans

An amendment would limit the interest rate, on any loans consolidated, rescheduled or reamortized by the Secretary under authority of provisions of the Consolidated Act other than the moratorium provisions described above, to the interest rate on the original loans, but only for the term of the original loans (Page 12, line 1).

Reauthorization

Under the terms of H.R. 5831, as introduced by Mr. Jones and Mr. Jeffords, the FmHA lending programs would be reauthorized for each of the fiscal years 1983-1985 as follows (Page 12, line 10):

(1) Real estate loans - $1,000,000,000

(2) Operating loans - $1,510,000,000

(3) Emergency (disaster) loans - such amounts as may be necessary

At least 25 percent of any amounts authorized for insured farm ownership and operating loans shall be for low-income, limited-resource applicants.

(4) Insured water and sewer facility loans - $ 500,000,000

(5) Industrial development loans - $1,000,000,000

A new "credit elsewhere" test would be applied for both insured and guaranteed B&I loans.

(6) Insured community facility loans - $ 300,000,000

Reports

An amendment would add to the Consolidated Act a new section requiring the Secretary to submit to the House and Senate Agriculture Committees quarterly reports, through September 30, 1985, showing the estimated number and dollar value of farm ownership, farm operating, disaster emergency and economic emergency loans (1) designated delinquent, (2) voluntarily liquidated, (3) accelerated, (4) in process of foreclosure, (5) foreclosed, and (6) subject to other adverse action. The amendment would require this information on a State-by-State basis, broken down by type of loan, insured or guaranteed loans, and regular or low-income loans (Page 14, line 4).

Effective Dates

An amendment would prescribe the effective date of the amendments made by the bill as the date of enactment, except that the effective date would be October 1, 1982, for amendments authorizing, in connection with water and waste facilities, grants to associations for use in repaying loans and to private organizations for use in furnishing technical assistance to borrowers, and payments to associations for use in meeting predevelopment costs (Page 17, line 3).

Title

The Print also provides for amending the title of the bill to reflect the fact that amendments are made to provisions of the Consolidated Act in addition to those establishing lending limits (Page 17).

AMENDMENT TO COMMITTEE PRINT OF H.R. 5831

Offered by Mr. English

1. On page 7, line 20, strike out "new subsections (c) and (d)" and insert in lieu thereof "a new subsection".

2. On page 9, strike out lines 3 through 7.

3. On page 12, after line 6, insert the following and renumber the subsequent sections accordingly:

> "Sec. 6. Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended by adding at the end thereof a new subsection as follows:
>
> > "(f) that a borrower having an outstanding loan made, insured or held by the Secretary for farm ownership purposes under Subtitle A, farm operating purposes under Subtitle B, disaster emergency purposes under Subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, be permitted to use the proceeds from the sale or lease of oil or gas or both located under the property securing the loan to make prospective scheduled payments on the loan.".

AMENDMENT TO H.R. 5831

Offered by Mr. Bedell

On Page 17, add a new section as follows:

"Sec. 8. Section 309(h) of the Consolidated Farm and Rural Development Act is amended by adding a new sentence as follows: In addition, the Secretary may provide financial assistance under Section 302 of this title by guaranteeing loans made by the States or by agencies of the States, including loans which involve tax-exempt bond funds."

AN AMENDMENT TO COMMITTEE PRINT OF H.R. 5831

Offered by Mr. Volkmer

On page 9, insert the following after line 7, new subsection (e)

"(e) The Secretary shall permit borrowers eligible for loans under this subtitle to secure those loans with the the mineral rights under the land, provided the borrower owns fifty percent or more of those mineral rights."

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date April 29, 1982

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Meeting: Public Hearing

Subject: Review of nutrition assistance block grant to Puerto Rico

Bill Nos. H.Res. 423

The Domestic Marketing, Consumer Relations & Nutrition (Sub) Committee met in open Session at 11:00 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Richmond
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr.
Mr.
Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.
Mr.

Staff present:

Carolyn Cheney, Subcommittee Staff Director
Nancy Chapman, Staff Assistant
Anita Brown, Staff Assistant
Lynn Gallagher, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

1. Mr. John Bode, Deputy Assistant Secretary, Food and Consumer Services, U.S. Department of Agriculture
2. Honorable Jenaro Collazo-Collazo, Secretary, Department of Social Services, Puerto Rico

Statements Filed:

April 29, 1982
Domestic Marketing, Consumer Relations,
and Nutrition Subcommittee
Public Hearing
Review of nutrition assistance block
grant to Puerto Rico
H.Res. 423

Chairman Richmond called the hearing to order at 11:00 a.m. Following opening remarks by Mr. Coleman, Mr. Richmond noted the necessary absence of Mr. Corrada, who had been scheduled to testify, and ordered that Mr. Corrada's statement be included in the record as though he had been present.

The subcommittee heard and questioned the witnesses listed on page 2 of these Minutes.

There was a brief recess at 12:04 p.m. to permit Members to respond to a call from the Floor of the House.

Chairman Richmond adjourned the hearing at 12:40 p.m., subject to call of the Chair. He ordered that the record remain open for two weeks to permit exchange of information by letter to be inserted in the record.

Christine D. Abram

Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date May 4, 1982 - morning

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: loan programs and lending policies of Rural Electrification Administration

Bill Nos. none

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 10:10 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Jones (Tenn.)
Mr. Daschle
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Roberts (Kans.)
Mr. Napier
Mr. Skeen
Mr. Coleman
Mr. Roberts (S.Dak.)
Mr. Gunderson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Also Present:

Mr. Stenholm
Mr. Hansen
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Jerry Welcome, Staff Assistant
Bob Cashdollar, Subcommittee Staff Director
Steve Adams, Staff Consultant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Arlan Stangeland, Member of Congress from Minnesota
2. Mr. Robert D. Partridge, Executive Vice President and General Manager, National Rural Electric Cooperative Association, Washington, D.C.
3. Mr. Angus S. Hastings, Clay Electric Co-op, Inc., Keystone Heights, Florida
4. Mr. John R. Dolinger, Manager, Cumberland EMC, Clarksville, Tennessee
5. Mr. Robert W. Williams, Jr., General Manager, Pee Dee Electric Co-op, Inc., Darlington, South Carolina
6. Mr. Ray Kuhl, General Manager, Michigan Electric Co-op Association, Lansing, Michigan
7. Mr. John B. Davenport, Director, Government Relations Department, National Rural Electric Cooperative Association, Washington, D.C.
8. Mr. LeRoy D. Schecher, Manager, Grand Electric Co-op, Inc., Bison, South Dakota
9. Mr. Ron Holsteen, Manager, Seward County RPPD, Seward, Nebraska
10. Mr. Wayne Retzlaff, Manager, McKenzie Electric Co-op, Inc., Watford City, North Dakota
11. Mr. Alton Rollans, Manager, Concho Valley Electric Co-op, Inc., San Angelo, Texas

Statements Filed:

May 4, 1982 - morning
Conservation, Credit, and Rural
Development Subcommittee
Loan programs and lending policies of
Rural Electrification Administration
Public Hearing

The Chair called the meeting to order at 10:10 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

At 11:55 a.m. a brief recess was called in order to allow Members to respond to a rollcall vote in full Committee.

At 12:35 p.m. the Chair adjourned the hearing, to reconvene at 1:30 p.m. this same day.

Christine D. Abram
Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date May 4, 1982 - afternoon

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: loan programs and lending policies of Rural Electrification Administration

Bill Nos. none

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 1:40 pm o'clock, in Room 1302 LHOB.

The following Members were present:		Also Present:
Mr. Jones (Tenn.)	Mr. Roberts (Kans.)	Mr. de la Garza (ex officic
Mr. Daschle	Mr. Napier	Mr. Wampler (ex officio)
Mr. Dorgan	Mr. Skeen	Mr.
Mr.	Mr. Gunderson	Mr.
Mr.	Mr. Evans	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Jerry Welcome, Staff Assistant
Bob Cashdollar, Subcommittee Staff Director
Steve Adams, Staff Consultant
Christine Abram, Staff Assistant
Jim Johnson, Staff Assistant

Witnesses:

1. Mr. Bradley R. Koch, Director, Energy and Environmental Policy Department, National Rural Electric Cooperative Association, Washington, D.C.
2. Mr. James M. Hubbard, Executive Vice President, North Carolina Association of Electric Co-ops, Raleigh, North Carolina
3. Mr. Maynard Human, General Manager, Western Farmers Electric Co-op, Anadarko, Oklahoma
4. Mr. Merrill J. Millett, General Manager, Deseret G&T Cooperative,
5. Mr. Joseph S. Ives, Environmental Counsel, National Rural Electric Cooperative Association, Washington, D.C.
6. Mr. Stanley K. Bazant, General Manager, Plains Electric G&T Co-op, Inc., Albuquerque, New Mexico
7. Mr. Charles Means, Manager, Associated Electric Co-op, Inc., Springfield, Missouri
8. Mr. Girts Krumins, President, Colorado-Ute Electric Association, Inc., Montrose, Colorado

Statements Filed:

May 4, 1982 - afternoon
Conservation, Credit, and Rural
  Development Subcommittee
Loan programs and lending policies of
  Rural Electrification Administration
Public Hearing

The Chair called the hearing to order at 1:40 p.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these minutes.

When the last witness had been heard, the Chair ordered that the record of this hearing be kept open to permit Members who were not able to be present at today's sessions to submit questions and receive answers in writing for the record.

At 3:00 p.m. the Chair adjourned the hearing until 10:00 a.m. on May 13, when the Subcommittee will meet on this same subject again.

Christine D. Abram
Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, May 4, 1982

~~Sub~~ Committee: Full

Meeting: Business

Subject: To set authorized ceilings for FmHA and rural development credit programs

Bill Nos. H.R. 5831

The Full ~~Sub~~ Committee

met in Open Session at 10:20 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones, N.C.
Mr. Jones, Tenn.
Mr. Bowen
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Daschle

Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Thomas
Mr. Hansen
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Bob Cashdollar, Subc. Staff Director
Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

Mr. Charles Shuman, Administrator, Farmers Home Administration, was present to respond to questions from Members of the Committee

Statements Filed:

Tuesday, May 4, 1982
Full Committee
Business Meeting
Set authorized ceilings for FmHA
 and rural development credit
 programs
H.R. 5831

Action Taken:

--Without objection, Volkmer request to withdraw his mortgaged livestock amendment offered on April 29 and to offer a revised amendment agreed to

--Without objection English amendment to the Volkmer amendment agreed to

--By a division vote of 4 yeas-15 nays, Volkmer amendment, as amended, not agreed to

--By a voice vote agreed to Bedell amendment to Jeffords moratorium amendment

--By a voice vote agreed to Marlenee amendment to Panetta substitute amendment to the Jeffords amendment

--By a rollcall vote of 27 yeas-11 nays, Panetta substitute amendment, as amended, to the Jeffords amendment agreed to

--By a voice vote agreed to Jeffords amendment as amended

--Without objection Stangeland amendment to require OMB to report to Congress which FmHA programs do not directly benefit farmers was temporarily laid over

Chairman de la Garza called the meeting to order for the purpose of continuing marking up H.R. 5831, the Farmers Home Administration reauthorization bill. A copy of a Committee Print of the bill as reported to the full Committee and a brief explanation are attached to April 29, 1982, minutes.

Mr. Volkmer, whose mortgaged livestock amendment was pending when the Committee adjourned on April 29, was recognized. He asked unanimous consent to withdraw the pending amendment and offer a revised version, and there was no objection. A copy of the revised amendment is attached. After Mr. Volkmer explained the new amendment, Mr. English was recognized to offer an amendment to the amendment as follows:

> On the fourth line from the botton, before the word "who", add: "or feed lot operator"

After a brief discussion, the English amendment was agreed to without objection. General discussion followed in which representatives from the Department of Agriculture participated. Mr. Jeffords moved the previous question and by a division vote of 4 yeas-15 nays, the Volkmer amendment, as amended, was not agreed to.

Tuesday, May 4, 1982
Full Committee
Business Meeting
Set authorized ceilings for FmHA
 and rural development credit
 programs
H.R. 5831

Mr. Jeffords was recognized to offer an amendment relative to loan moratoriums (attached) and explained its provisions. General discussion followed. Mr. Bedell offered an amendment as follows:

> Strike line 7 on page 8 through line 24 on page 11

After a brief discussion, the Bedell amendment to the Jeffords amendment was agreed to by a voice vote.

Mr. Panetta was recognized to offer a substitute amendment as follows:

> Strike line 21 on page 10 through line 14 on page 11

General discussion followed. Mr. Marlenee was recognized to offer an amendment to the substitute as follows:

> On page 10, line 4, after the word "due", delete the words "without unduly impairing the standards of living of the borrower" which appear on lines 4 and 5

The Marlenee amendment was agreed to by a voice vote, after which the Chairman asked for a division vote on the Panetta substitute as amended. It was agreed to by a vote of 15 yeas-4 nays. Ten Members, a sufficient number, requested a record vote. The clerk was instructed to call the roll and the vote follows:

YEAS

1. Mr. Jones, N.C.
2. Mr. Bedell
3. Mr. Panetta
4. Mr. Huckaby
5. Mr. Glickman
6. Mr. Whitley (proxy to Mr. Stenholm)
7. Mr. Coelho (proxy to Mr. Stenholm)
8. Mr. Stenholm
9. Mr. Volkmer
10. Mr. Hatcher
11. Mr. Wampler
12. Mr. Findley
13. Mr. Jeffords
14. Mr. Hagedorn (proxy to Mr. Jeffords)
15. Mr. Coleman
16. Mr. Hopkins
17. Mr. Thomas
18. Mr. Hansen (proxy to Mr. Jeffords)
19. Mr. Roberts, Kans.
20. Mr. Emerson
21. Mr. Napier
22. Mr. Skeen (proxy to Mr. Jeffords)
23. Mr. Morrison (proxy to Mr. Jeffords)
24. Mr. Roberts, S. Dak.
25. Mr. Gunderson
26. Mr. Evans
27. Mr. Chappie (proxy to Mr. Jeffords)

Tuesday, May 4, 1982
Full Committee
Business Meeting
Set authorized ceilings for FmHA
and rural development credit
programs
H.R. 5831

NAYS

1. Mr. Jones, Tenn.
2. Mr. Bowen (proxy to Mr. Jones, Tenn.)
3. Mr. Rose (proxy to Mr. de la Garza)
4. Mr. Harkin (proxy to Mr. Jones, Tenn.)
5. Mr. English
6. Mr. Daschle
7. Mr. Dorgan
8. Mr. Albosta (proxy to Mr. de la Garza)
9. Mr. de la Garza
10. Mr. Marlenee
11. Mr. Stangeland

Thus, by a vote of 27 yeas-11 nays, the Panetta substitute, as amended, to the Jeffords amendment was agreed to.

The Chairman asked for a voice vote on the Jeffords amendment, as amended, and the ayes prevailed.

Mr. Stangeland was recognized to offer an amendment (attached) relative to requiring OMB to report to Congress which FmHA programs do not directly benefit farmers. A brief discussion followed, after which Mr. Stangeland asked that the amendment be temporarily laid over in order that an agreement could be worked out with Mr. Jones, Tenn., and there was no objection.

Mr. Glickman chaired the meeting at 11:00 for approximately 30 minutes.

The Committee adjourned at 12:07 to reconvene at 2:30 p.m. this date to continue marking up H.R. 5831.

Peggy Pecore
Peggy Pecore

AMENDMENT TO H.R. 5831

(Committee Print)

Offered by Mr. Jeffords

Strike all after line 7, page 9 through line 6, page 12.

Add the following new Section 5:

Declaration of Policy

"It is the intent of Congress that the Farmers Home Administration continue to set high priority on counseling its borrowers who are unable to make payments due to circumstances beyond the borrowers' control on a case-by-case basis and to consider the full range of Farmers Home Administration authority, including the consolidation, rescheduling, or deferment of loan payments, to assist such borrowers and avoid termination of any loan accounts when such action will enable the borrower to remain in business and ultimately repay said loan. The Secretary of Agriculture is encouraged to consider, on a case-by-case basis, the implementation of the authority provided by section 1981a of Title VII of the United States Code, which provides as follows:

"§ 1981a. Loan moratorium and policy on Foreclosure

"In addition to any other authority that the Secretary may have to defer principal and interest and forgo foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this chapter, or under the provisions of any other law administered by the Farmers Home Administration, and may forgo foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: Provided, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law."

AN AMENDMENT TO COMMITTEE PRINT
OF H.R. 5831
Offered by Mr. Volkmer

On page 12, insert the following after line 6 and renumber the subsequent sections accordingly:

"Sec. 6 Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended by adding at the end thereof a new subsection as follows:

' (e) Notwithstanding any other federal or State law, the Secretary shall not have a claim or cause of action, arising from a security interest in livestock, against:

(1) a purchaser for value of; or

(2) a market agency, dealer, or stockyard owner, as those terms are defined by Section 301 of the Packers and Stockyards Act (7 U.S.C. 201), who facilitates or assists the sale of,

such livestock; Provided: the purchaser, market agency, dealer, or stockyard owner acted in good faith and without actual knowledge of the existence of the Secretary's security interest.'."

Amendment to H.R. 5831

(Committee Print)

Offered by Mr. Stangeland

The following new section is added immediately after line 2, page 17, and subsequent sections are renumbered accordingly:

"Sec. _____. Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Congress a report --

(1) identifying those programs currently administered by the Farmers Home Administration that do not provide assistance for the direct benefit of farmers and ranchers and could be transferred and appropriately administered by another executive department, and

(2) evaluating the impact of transferring each such program to such other executive department.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, May 4, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: To set authorized ceilings for FmHA and rural development credit programs

Bill Nos. H.R. 5831

The Full ~~(Sub)~~ Committee

met in Open Session at 3:00 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher

Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Thomas
Mr. Hansen
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Bernie Brenner, Press Secretary
Bob Cashdollar, Subc. Staff Director
Jim Johnson, Staff Assistant
Roger Allbee, Minority Consultant
Frank Winston, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

Mr. Charles Shuman, Administrator, Farmers Home Administration, Department of Agriculture was present to respond to questions

Statements Filed:

none

Tuesday, May 4, 1982 - P.M.
Full Committee
Business Meeting
Set authorized ceilings for FmHA
 and rural development credit programs
H.R. 5831

Action taken:

--Without objection, Stangeland amendment to require OMB to report to Congress which FmHA programs do not directly benefit farmers was withdrawn

--Without objection, English amendment relative to the rate of interest on loans following a deferral period was agreed to

--By voice vote agreed to Marlenee amendment relative to minerals, oil, or gas rights used as collateral agreed to

--By voice vote Huckaby amendment relative to limited resource loans not agreed to

--Without objection, Albosta amendment to Thomas amendment relative to business and industrial loans agreed to

--By a division vote of 10 yeas-6 nays, Thomas amendment, as amended, agreed to

--By a rollcall vote of 13 yeas-15 nays, Albosta amendment relative to disaster assistance not agreed to

--Without objection agreed to Jones, Tenn. amendment to Stangeland amendment relative to FmHA farm program borrowers having the right to meet with their county committeemen agreed to

--By voice vote agreed to Stangeland amendment, as amended

--By voice vote agreed to Stangeland amendment to restore county committee men's authority to set loan ceilings

--By voice vote agreed to Evans amendment relative to financial need

--By a division vote of 6 yeas-4 nays, Albosta revised amendment relative to disaster assistance agreed to

--By voice vote agreed to Napier multi-community water and waste disposal project amendment

--By a rollcall vote of 38 yeas-1 nay, H.R. 5831, as amended, ordered reported to the House in the presence of a quorum

Tuesday, May 4, 1982 - P.M.
Full Committee
Business Meeting
Set authorized ceilings for FmHA
and rural development credit
programs
H.R. 5831

Chairman de la Garza called the meeting to order and recognized Mr. Stangeland for further discussion on his amendment which had been temporarily laid over from the morning meeting (see A.M. minutes, this date, for the amendment). Mr. Jones informed the Members he and Mr. Stangeland had reached accord and that the Subcommittee on Conservation, Credit, and Rural Development would conduct hearings on the matter at the earliest possible date. Without objection, the Stangeland amendment was withdrawn.

Mr. English was recognized to offer an amendment (attached) relative to the rate of interest on loans following a deferral period. After he explained his amendment, it was agreed to without objection.

Mr. Marlenee was recognized to offer an amendment (attached) relative to secured collateral. After a brief discussion, the amendment was agreed to by a voice vote.

The Chairman next recognized Mr. Huckaby to offer an amendment (attached) relative to limited resource loans. General discussion followed. The Chairman asked for a voice vote on the amendment and the nays prevailed. Thus, the amendment was not agreed to.

Mr. Thomas was recognized to offer an amendment (attached) relative to business and industrial loans. Mr. Albosta offered an amendment to the amendment as follows:

> on line 2, after the word "applicant", add "at the same interest rate"

Mr. Thomas accepted the amendment and it was agreed to without objection. After a general discussion, the Chairman asked for a division vote and the amendment was not agreed to by a tie vote of 7 yeas-7 nays. As the results were announced, another Member came into the meeting. Discussion occurred on whether a Member on the prevailing side might move to reconsider the vote. The Chairman vacated the proceedings and placed the bill in its original form before the Members. Mr. Albosta was recognized to offer his amendment (see above) and it was agreed to by a voice vote. The Chairman asked for a division vote and the amendment, as amended, was agreed to by a division vote of 10 yeas-6 nays.

Mr. Albosta was recognized to offer an amendment (attached) relative to disaster assistance. General discussion followed. The Chairman asked for a division vote and the amendment was agreed to by a vote of 5 yeas-4 nays. Five members, a sufficient number, requested a record vote The clerk was instructed to call the roll and the vote follows:

Tuesday, May 4, 1982 - A.M.
Full Committee
Business Meeting
Set authorized ceilings for FmHA and rural development credit programs
H.R. 5831

YEAS

1. Mr. Jones, N.C. (proxy to Mr. Jones, Tenn.)
2. Mr. Jones, Tenn.
3. Mr. Brown (proxy to Mr. Jones)
4. Mr. Bowen (proxy to Mr. Jones, Tenn.)
5. Mr. Richmond (proxy to Mr. Jones, Tenn.)
6. Mr. Harkin
7. Mr. Bedell (proxy to Mr. Jones, Tenn.)
8. Mr. English (proxy to Mr. Jones, Tenn.)
9. Mr. Panetta (proxy to Mr. Jones, Tenn.)
10. Mr. Glickman
11. Mr. Volkmer
12. Mr. Dorgan
13. Mr. Albosta

NAYS

1. Mr. Wampler (proxy to Mr. Thomas)
2. Mr. Findley (proxy to Mr. Thomas)
3. Mr. Jeffords (proxy to Mr. Thomas)
4. Mr. Hagedorn (proxy to Mr. Thomas)
5. Mr. Coleman (proxy to Mr. Thomas)
6. Mr. Marlenee
7. Mr. Thomas
8. Mr. Hansen (proxy to Mr. Thomas)
9. Mr. Stangeland
10. Mr. Emerson
11. Mr. Skeen (proxy to Mr. Thomas)
12. Mr. Morrison
13. Mr. Gunderson (proxy to Mr. Thomas)
14. Mr. Evans
15. Mr. Chappie

Thus, by a vote of 13 yeas-15 nays, the Albosta amendment was not agreed to.

Mr. Stangeland was recognized to offer an amendment (attached) relative to borrowers having the right to meet with their county committeemen. Mr. Jones, Tenn., offered an amendment as follows:

> On the third line of subsection (d), change the word "shall" to "may"

Mr. Stangeland accepted the amendment and it was agreed to without objection. After discussion, the amendment, as amended, was agreed to

The Chairman again recognized Mr. Stangeland for an amendment (attached) relative to restoring county committeemen's authority to set loan ceilings. Discussion followed. The Chairman asked for a voice vote and the amendment was agreed to.

Tuesday, May 4, 1982- P.M.
Full Committee
Business Meeting
Set authorized ceilings for FmHA
 and rural development credit
 programs
H.R. 5831

The Chairman recognized Mr. Evans to offer an amendment (attached) relative to financial need. General discussion followed. The Chairman asked for a voice vote and the amendment was agreed to.

Mr. Albosta was recognized to offer a revised version of his disaster assitance amendment (attached). After a brief discussion the amendment was agreed to by a division vote of 6 yeas-4 nays.

Mr. Napier was recognized to offer an amendment (attached) relative to multi-community water and waste disposal projects. After discussion, the amendment was agreed to by a voice vote.

Mr. Jones moved to report H.R. 5831, as amended, to the House with the recommendation that it do pass. The motion was agreed to by a voice vote. Mr. Jones asked for a record vote. The clerk was instructed to call the roll and the vote follows:

YEAS

1. Mr. Jones, N.C. (proxy to Mr. Jones, Tenn.)
2. Mr. Jones, Tenn.
3. Mr. Brown (proxy to Mr. Jones, Tenn.)
4. Mr. Bowen (proxy to Mr. Jones, Tenn.)
5. Mr. Richmond (proxy to Mr. Jones, Tenn.)
6. Mr. Harkin (proxy to Mr. Jones, Tenn.)
7. Mr. Bedell
8. Mr. English
9. Mr. Fithian (proxy to Mr. de la Garza)
10. Mr. Panetta
11. Mr. Huckaby
12. Mr. Glickman
13. Mr. Whitley (proxy to Mr. Huckaby)
14. Mr. Daschle
15. Mr. Stenholm
16. Mr. Volkmer
17. Mr. Hatcher
18. Mr. Dorgan
19. Mr. Albosta
20. Mr. de la Garza
21. Mr. Wampler
22. Mr. Findley
23. Mr. Jeffords (proxy to Mr. Wampler)
24. Mr. Hagedorn (proxy to Wampler)
25. Mr. Coleman (proxy to Mr. Wampler)
26. Mr. Marlenee
27. Mr. Hopkins
28. Mr. Hansen
29. Mr. Stangeland
30. Mr. Roberts, Kans. (proxy to Mr. Wampler)
31. Mr. Emerson
32. Mr. Napier
33. Mr. Skeen
34. Mr. Morrison
35. Mr. Roberts, S. Dak. (proxy to Mr. Wampler)
36. Mr. Gunderson (proxy to Mr. Wampler)
37. Mr. Evans
38. Mr. Chappie

NAYS

1. Mr. Thomas (proxy to Mr. Wampler)

Tuesday, May 4, 1982
Full Committee
Business Meeting
Set authorized ceilings for FmHA and rural development credit programs
H.R. 5831

Thus, H.R. 5831, amended, was ordered reported to the House in the presence of a quorum (25 Members were present).

The Chairman announced that staff would be given permission to make necessary clarifying corrections to the bill, and that Members would be given the customary number of days to submit additional views for the Committee Report.

During the meeting, Mr. Volkmer chaired from 4:00 until approximately 5:15 p.m.

The Chairman announced the Committee would meet on Thursday, May 6, 1982, at 10:00 a.m. for the purpose of marking up H.R. 5203, Federal Insecticide, Fungicide, and Rodenticide Act Amendments.

The clerk was requested to remain in the room until 5:35 p.m. in the event other Members might wish to record their votes. Whereupon, the meeting was adjourned at 5:28 p.m.

Peggy Pecore
Peggy Pecore

AMENDMENT TO THE COMMITTEE PRINT OF H.R. 5831
Offered by Mr. English

On page 12, line 1, insert "deferred," after "any loan".

AMENDMENT TO COMMITTEE PRINT
OF H.R.5831
Offered by Mr. Marlenee

On page 9, after line 7, add the following new subsection:

"(e) Unless assigned values for minerals, oil or gas are specifically included as part of the appraisal report of agricultural property securing a farm ownership loan, the rights to minerals, oil or gas beneath the property shall not be considered part of the secured collateral."

Amendment to Committee Print of H. R. 5831
Offered by Mr. Huckaby

On page 13, after line 23, insert the following new section:

SEC. 7. Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof a new subsection (f) as follows: "(f) Funds designated for farm operating loans for low-income, limited-resource applicants may be transferred within a State for farm operating loans for applicants who are not low-income, limited-resource applicants, to the extent that funds authorized for farm operating loans for low-income, limited-resource applicants exceed the demand for those funds. Such transfer of funds authorized in the preceding sentence may be done only within a State's allocation of farm operating loan funds, and only when the following conditions exist: When the funds authorized for low-income, limited-resource applicants exceed 200 per centum of the funds demanded by low-income, limited-resource applicants, for ten consecutive working days during the last 30 calendar days of each quarter of the fiscal year."

H.R. 5831

Offered by Mr. Thomas

Page 13, line 18, strike everything after "loans," through line 21 and insert in lieu thereof:

> "the lender certifies that the lender is unwilling to provide credit to the applicant in the absence of the guarantee authorized by this Act; and

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AMENDMENT TO H.R. 5831 OFFERED BY MR. ALBOSTA

On page 9, after line 7, insert the following and renumber the succeeding sections accordingly:

Sec. 5 (a) Section 329 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1970) is amended by

(1) striking out "30 per centum" and inserting in lieu thereof "20 per centum";

(2) striking out "based upon the average monthly price in effect for the previous year", and

(3) striking out "80 per centum" and inserting in lieu thereof "90 per centum".

(b) The amendments made by subsection (a) of this section shall apply to financial assistance made with respect to disasters occurring after January 1, 1981.

AMENDMENT TO H.R. 5831 (Committee Print)

Offered by Mr. Stangeland

The following new section is added immediately after line 2, page 17, and subsequent sections are renumbered accordingly:

Sec. _____. Section 332 of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following new subsection:

"(d) On the request of the recipient of a loan with respect to which the Committee makes certification under section 333 of this Act, the Committee shall meet with such recipient--

"(1) to discuss with such recipient any question regarding the farming operation of such recipient, or

"(2) to advise such recipient regarding farm management decisions such recipient may be required to make."

AMENDMENT TO H.R. 5831 (Committee Print)

Offered by Mr. Stangeland

The following new section is added immediately after line 2, page 17, and subsequent sections are renumbered accordingly:

Sec. ____. Section 333(b) of the Consolidated Farm and Rural Development Act is amended--

(1) by inserting "and" at the end thereof,

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end thereof the following new paragraph:

"(2) the county committee to establish the maximum amount of credit which may be extended to such applicant under such certification to meet the actual needs of such applicant during crop year involved;".

AMENDMENT TO COMMITTEE PRINT H.R. 5831

Offered by Mr. Evans of Iowa

On page 3, line 1, after the word "levels" insert the following: "which can demonstrate a financial need"

On page 3, line 6, after the word "paragraph" insert the following: "when the community can demonstrate a financial need"

AMENDMENT TO H.R. 5831 OFFERED BY MR. ALBOSTA

On page 9, after line 7, insert the following and renumber the succeeding sections accordingly:

Sec. 5 (a) Section 329 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1970) is amended by

(1) striking out "30 per centum" and inserting in lieu thereof "20 per centum";

(2) striking out "based upon the average monthly price in effect for the previous year", and

~~(3) striking out "80 per centum" and inserting in lieu thereof "90 per centum"~~.

(b) The amendments made by subsection (a) of this section shall apply to financial assistance made with respect to disasters occurring after January 1, 1981.

Multi-Community Project Amendment

On page 4, line 2, I move to amend the bill by striking "(16), (17), and (18)" and inserting "(16), (17), (18), and (19)" and on page 7, by inserting the following between lines 11 and 12:

> "(19) In the case of water and waste disposal projects serving more than one separate rural community, the Secretary shall utilize the median population level and the median community income level of all the separate communities to be served in applying the formulas provided in subsections 306(a)(2), 306(a)(16) and 307(a)(3)(A)."

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, May 6, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: Federal Insecticide, Fungicide, and Rodenticide Act Amendments

Bill Nos. H.R. 5203

The Full ~~(Sub)~~ Committee

met in Open Session at 10:30 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Bowen
Mr. Rose
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. Fithian
Mr. Panetta
Mr. Glickman
Mr. Coelho

Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Coleman
Mr. Thomas
Mr. Hansen
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counse
Bob Lowerre, Associate Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Gene Moos, Subc. Staff Director
Peggy Pecore, Clerk

Witnesses:

Mr. Edward Gray, Office of General Counsel, Environmental Protection Agency, was present to respond to questions

Statements Filed:

none

Thursday, May 6, 1982
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 5203

Action taken:

--By voice vote, agreed to Brown amendment relative to safe working conditions

--By a rollcall vote of 22 yeas-19 nays, Thomas substitute amendment relative to judicial review to the Glickman amendment relative to private right of action agreed to

--By a rollcall vote of 21 yeas-20 nays, Glickman amendment, as amended, agreed to

Chairman de la Garza called the meeting to order and briefly reviewed action by the Subcommittee on Department Operations, Research, and Foreign Agriculture on amendments to the Federal Insecticide, Funcicide Act. He recognized the Chairman of the Subcommittee, Mr. Brown, who summarized the various provisions of H.R. 5203. See minutes of the Subcommittee markup on April 27, 1982 for a copy of a Committee Print of language reported to the full Committee, and a brief discription. Counsel Bor was recognized to respond to questions from Members. There being none, Mr. Brown moved that the bill be open to amendment at any point.

The Chairman recognized Mr. Brown who offered a technical amendment (attached) relative to safe working conditions. After a brief discussion, the amendment was agreed to by a voice vote.

Mr. Glickman was recognized to offer an amendment (attached) relative to the private right of action. After a general discussion, the Committee recessed at 11:05 until 11:35 to enable Members to respond to votes on the House Floor.

Mr. Thomas offered a substitute amendment (attached) to the Glickman amendment, to strike the section of the bill relative to judicial review. Discussion followed. The Chairman put the question on the Thomas amendment and asked for a voice vote. He informed the Members he was in doubt as to the outcome. He asked for a division vote and the amendment was not agreed to by a vote of 5 yeas-8 nays. Five Members, a sufficient number, requested a record vote. The clerk was instructed to call the roll and the vote follows:

Thursday, May 6, 1982
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 5203

YEAS

1. Mr. Foley (proxy to Mr. de la Garza)
2. Mr. Jones, N.C. (proxy to Mr. de la Garza)
3. Mr. Bowen (proxy to Mr. de la Garza)
4. Mr. English (proxy to Mr. de la Garza)
5. Mr. Stenholm (proxy to Mr. de la Garza)
6. Mr. Volkmer
7. Mr. Wampler (proxy to Mr. Coleman)
8. Mr. Findley (proxy to Mr. Thomas)
9. Mr. Hagedorn (proxy to Mr. Thomas)
10. Mr. Marlenee (proxy to Mr. Thomas)
11. Mr. Hopkins (proxy to Mr. Thomas)
12. Mr. Thomas
13. Mr. Hansen (proxy to Mr. Thomas)
14. Mr. Stangeland
15. Mr. Roberts, Kans.
16. Mr. Emerson
17. Mr. Napier (proxy to Mr. Thomas)
18. Mr. Skeen
19. Mr. Morrison (proxy to Mr. Thomas)
20. Mr. Roberts, S. Dak. (proxy to Mr. Thomas)
21. Mr. Evans (proxy to Mr. Thomas)
22. Mr. Chappie (proxy to Mr. Thomas)

NAYS

1. Mr. Jones, Tenn. (proxy to Mr. de la Garza)
2. Mr. Brown
3. Mr. Rose (proxy to Mr. de la Garza)
4. Mr. Richmond (proxy to Mr. Brown)
5. Mr. Weaver
6. Mr. Harkin
7. Mr. Bedell
8. Mr. Fithian
9. Mr. Panetta (proxy to Mr. Glickman)
10. Mr. Glickman
11. Mr. Whitley (proxy to Mr. de la Garza)
12. Mr. Coelho (proxy to Mr. Fithian)
13. Mr. Daschle (proxy to Mr. Harkin)
14. Mr. Hatcher (proxy to Mr. de la Garza)
15. Mr. Dorgan
16. Mr. Albosta
18. Mr. Coleman
19. Mr. Gunderson

Thus, by a vote of 22 yeas-19 nays, the Thomas substitute amendment was agreed to.

The Chairman asked for a division vote on the Glickman amendment, as amended, and it was not agreed to by a vote of 6 yeas-10 nays. Five Members, a sufficient number, requested a record vote. The clerk was instructed to call the roll and the vote follows:

Thursday, May 6, 1982
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 5203

YEAS

1. Mr. Foley (proxy to Mr. de la Garza)
2. Mr. Bowen (proxy to Mr. de la Garza)
3. Mr. English (proxy to Mr. de la Garza)
4. Mr. Stenholm (proxy to Mr. de la Garza)
5. Mr. Volkmer
6. Mr. Wampler (proxy to Mr. Thomas)
7. Mr. Findley (proxy to Mr. Thomas
8. Mr. Hagedorn (proxy to Mr. Thomas)
9. Mr. Marlenee
10. Mr. Hopkins (proxy to Mr. Thomas)
11. Mr. Thomas
12. Mr. Hansen (proxy to Mr. Thomas)
13. Mr. Stangeland
14. Mr. Roberts, Kans.
15. Mr. Emerson
16. Mr. Napier (proxy to Mr. Mr. Thomas)
17. Mr. Skeen
18. Mr. Morrison (proxy to Mr. Thomas)
19. Mr. Roberts, S. Dak. (proxy to Mr. Thomas)
20. Mr. Evans (proxy to Mr. Mr. Thomas)
21. Mr. Chappie (proxy to Mr. Thomas)

NAYS

1. Mr. Jones, N.C. (proxy de la Garza)
2. Mr. Jones, Tenn. (proxy to Mr. de la Garza)
3. Mr. Brown
4. Mr. Rose (proxy to Mr. de la Garza)
5. Mr. Richmond (proxy to Mr. Brown)
6. Mr. Weaver
7. Mr. Harkin
8. Mr. Bedell
9. Mr. Fithian
10. Mr. Panetta
11. Mr. Glickman
12. Mr. Whitley (proxy to Mr. de la Garza)
13. Mr. Coelho (proxy to Mr. Fithian)
14. Mr. Daschle (proxy to Mr. Glickman)
15. Mr. Hatcher (proxy to Mr. de la Garza)
16. Mr. Dorgan (proxy to Mr. Glickman)
17. Mr. Albosta (proxy to Mr. de la Garza)
18. Mr. de la Garza
19. Mr. Coleman
20. Mr. Gunderson

By a vote of 21 yeas-20 nays, the Glickman amendment, as amended, was agreed to.

The Committee adjourned at 12:30 p.m., to reconvene at 2:00 p.m., this date, to continue marking up H.R. 5203.

Peggy Pecore
Peggy Pecore

AMENDMENT TO HR 5203 OFFERED BY MR. BROWN OF CALIFORNIA

Section 12 is amended to read as follows:

"Section 25 ofthe Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new section as follows:

(e) The Congress hereby finds and declares that the following steps are necessary to provide for the safe use of pesticides and for safe working conditions for farmworkers. The Administrator shall, if new regulations are found to be necessary, promulgate regulations pursuant to the procedures set forth in this section as soon as practicable, but in no event later than one year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, to establish minimum field reentry standards and to develop alternative methods of advising persons specified in this subsection of such standards. This subsection shall not apply to any persons to the extent that they are covered by standards or regulations issued under the Occupational Safety and Health Act."

AMENDMENT BY MR. GLICKMAN

On Page 61, Lines 21-24, substitute the following:

"Any person claiming to be aggrieved by use of a pesticide in violation of this Act may bring suit in a United States district court having jurisdiction of the parties for equitable relief, and any person who handles, stores, or applies pesticides in the commercial production of food, feed, and fiber crops who establishes actual damages from the use of a pesticide in violation of this Act may bring suit in a United States district court having jurisdiction of the parties."

AMENDMENT TO H.R. 5203

Offered by Mr. Thomas

Strike all commencing on line 17 through line 24, page 61, and renumber the sections that follow.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, May 6, 1982

~~(SUB)~~ Committee: Full

Meeting: Business

Subject: Federal Insecticide, Fungicide, and Rodenticide Act Amendments

Bill Nos. H.R. 5203

The Full ~~(SUB)~~ Committee

met in Open Session at 2:53 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Brown
Mr. Bowen
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Glickman
Mr. Daschle

Mr. Stenholm
Mr. Volkmer
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Hagedorn
Mr. Coleman
Mr. Hopkins
Mr. Hansen
Mr. Roberts, Kans.
Mr. Emerson
Mr. Skeen
Mr. Morrison
Mr. Gunderson
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Steve McCoy Staff Economist
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

Mr. Edward Gray, Office of General Counsel, Environmental Protection Agency, was present to respond to questions

Statements Filed:

none

Thursday, May 6, 1982 - P.M.
Full Committee
Business Meeting
Federal Insecticide, Fungicide, and Rodenticide Act Amendments
H.R. 5203

Action taken:

--Without objection agreed to Brown language perfecting his amendment to the "Protection of Trade Secrets and Other Information" section of H.R. 5203

--Without objection, agreed to the Brown amendment as amended

--By a division vote of 5 yeas-7 nays, Glickman amendment relative to civil action not agreed to

--Without objection Harkin amendment relative to monitoring agreed to

--By a voice vote ordered H.R. 5203, amended, reported to the House in the presence of a quorum

Chairman de la Garza called the meeting to order and recognized Mr. Brown who offered an amendment (attached) relative to States obtaining information with regard to pesticide registration. After discussion, he proposed to add the following language to his amendment:

> On the fourth line from the bottom, after the word "Administrator", add "in exercising its authority under Section 24(a)"

The language was agreed to without objection. The Chairman asked for a vote on the amendment and it was agreed to without objection.

Mr. Glickman was recognized to offer an amendment (attached) relative to civil action. Discussion followed. The Chairman asked for a division vote and the amendment was not agreed to by a vote of 5 yeas-7 nays.

The Chairman recognized Mr. Harkin who offered an amendment (attached) relative to monitoring pesticide use. After a brief discussion the amendment was agreed to without objection.

Mr. Brown was recognized to offer a motion to report H.R. 5203, as amended, to the House with the recommendation that it do pass. The Chairman asked for a voice vote and the ayes prevailed. The Chairman instructed the clerk to call the roll to establish a quorum, and the following Members responded:

Thursday, May 6, 1982 - P.M.
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 5203

PRESENT

1. Mr. Brown
2. Mr. Bowen
3. Mr. Weaver
4. Mr. Harkin
5. Mr. Bedell
6. Mr. English
7. Mr. Fithian
8. Mr. Panetta
9. Mr. Glickman
10. Mr. Daschle
11. Mr. Stenholm
12. Mr. Dorgan
13. Mr. Albosta
14. Mr. de la Garza
15. Mr. Wampler
16. Mr. Findley
17. Mr. Coleman
18. Mr. Hopkins
19. Mr. Emerson
20. Mr. Skeen
21. Mr. Morrison
22. Mr. Gunderson
23. Mr. Chappie

Thus, H.R. 5203, amended, was reported to the House in the presence of a quorum.

The Chairman announced that staff would be given the usual permission to make technical and clarifying corrections to the bill.

The Committee adjourned at 4:15 p.m., to meet again subject to the call of the chair.

Peggy Pecore
Peggy Pecore

AMENDMENT BY MR. BROWN OF CALIFORNIA to Section 5 of H.R. 5203

Page 45, line 2, after subsection (d)(1)(C) insert the following: Subsection (d)(1)(D). "A State may obtain information described by Subparagraphs (A),(B), and (C) of this paragraph from the Administrator. A State shall not disclose information described by paragraphs (A),(B), and (C) of this paragraph except to the extent such information has been disclosed by the Administrator under this section."

AMENDMENT BY MR. GLICKMAN

On Page 53, strike lines 3 through 15, and insert in lieu thereof the following:

"(h) A submitter of data to the Administrator who is or may be adversely affected by the violation (or threatened violation) of this section may bring an action in an appropriate United States district court against the Administrator or against any agency official specifically to enforce, or restrain violations of, this section.";

AMENDMENT OFFERED BY MR. HARKIN

Add the following underlined words to Section 20(c):

PROPOSED AMENDMENT TO SECTION 20(c)

20(c) Monitoring. - The Administrator shall undertake such monitoring activities, including, but not limited to, monitoring in air, soil, surface and ground water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidental pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, May 12, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Open Hearing and Business

Subject: International Carriage of Perishable Foodstuffs Act

Bill Nos. H.R. 6164

The Department Operations, Research, and Foreign / Agricultrue (Sub) Committee met in Open Session at 2:40 pm o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. Brown
Mr. Foley
Mr. de la Garza,
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Roberts, Kans.
Mr. Emerson
Mr. Evans
Mr.
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Staff present:

Chris Aldrete, Special Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Honorable E (Kika) de la Garza, author of the bill
2. Mr. Richard Johe, Director, Federal Government Affairs, Sealand, Iselin, New Jersey
3. Mr. Peter J. Luciano, Executive Director, Transportation Institute, Washington, D.C.
4. Mr. Richard Warren, Acting Director, Office of Transportation, U.S. Department of Agriculture,
   accompanied by: Mr. Robert F. Guilfoy, Chief, Transportation and Packaging Research Branch

Statements Filed:

Honorable William C. Wampler, Member of Congress from Virginia

Wednesday, May 12, 1982
Subcommittee on Department Operations,
 Research, and Foreign Agriculture
Open Hearing and Business Meeting
International Carriage of Perishable
 Foodstuffs Act
H.R. 6164

OPEN HEARING

Chairman Brown called the meeting to order and made a breif statement about the purpose of the legislation, and recognized Chairman de la Garza, author of the bill, for a brief explanation. A statement by Mr. Wampler, who had been detained, was placed in the record by Mr. Emerson.

The witnesses listed on page two gave testimony and responded to questions as appearing in the record.

The Subcommittee adjourned at 3:05 p.m. to reconvene in a business meeting to mark up H.R. 6164.

BUSINESS MEETING

Action taken:

--Without objection agreed to Brown amendments relative to the authority of the Secretary to enforce the requirements, and user fees

--By a voice vote, ordered H.R. 6164, amended, reported to the full Committee in the presence of a quorum.

Chairman Brown called the meeting to order for the purpose of marking up H.R. 6164. A copy of the bill, a brief explanation, and a statement of purpose and need are attached.

Mr. Brown offered two amendments (attached) which were explained by counsel. Without objection the amendments were agreed to.

Counsel asked permission to make technical changes to conform with language approved by the Senate Committee on Agriculture, Nutrition, and Forestry, and there was no objection.

Mr. Wampler moved to report the bill as amended to the full Committee. The Chairman asked for a voice vote and the bill was ordered reported.

Business was suspended for five minutes in order to establish a quorum.

Without objection, Mr. Foley's motion to give staff the usual authority to make technical and clarifying corrections was agreed to.

Wednesday, May 12, 1982
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Open Hearing and Business Meeting
International Carriage of Perishable
Foodstuffs Act
H.R. 6164

Mr. Foley moved that the Subcommittee adjourn and his motion was agreed to by a voice vote. Mr. Roberts, Kans. arrived, and the Chairman asked if there were any objection to his being counted present for the purpose of a quorum. There was no objection.

The Subcommittee adjourned at 3:15 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

97th CONGRESS
2d Session

H. R. 6164

To implement the agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage (ATP), and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April 27, 1982

Mr. de la Garza (for himself, Mr. Wampler, Mr. Jones of North Carolina, Mr. Fountain, and Mr. Zablocki) (by request) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To implement the agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage (ATP), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act".

SEC. 2. FINDINGS AND PURPOSE.

The Congress hereby finds and declares that—

(a) the United States, as a member of the Economic Commission for Europe of the United Nations, participated in development of the Economic Commission for Europe Agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage (ATP), hereinafter referred to as "agreement";

(b) the agreement requires that equipment involved in international carriage be inspected, tested, and certified to specified standards and that perishable foodstuffs be maintained at specified temperatures during carriage;

(c) this Act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and

(d) this Act will improve the conditions for preservation of the quality of perishable foodstuffs during transport, particularly in international trade, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs.

SEC. 3. DEFINITIONS.

As used in this Act—

(a) the term "agreement" means the agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage (ATP), and the annexes and appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations;

(b) the term "contracting party" means any country which is eligible under article 9 of the agreement and has complied with the terms of said article;

(c) the term "equipment" means the special transport equipment as defined in annex 1 of the agreement, to include but not limited to railway cars, trucks, trailers, semitrailers, and intermodal freight containers which are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance;

(d) the term "perishable foodstuffs" means quick deep-frozen and frozen food products listed in annex 2 and food products listed in annex 3 of the agreement;

(e) the term "international carriage" means transportation of perishable foodstuffs loaded in equipment in the territory of any country and unloaded in the territory of another country which is a contracting party, where such transportation is by—

(1) rail,

(2) road,

(3) any combination of rail and road, or

(4) sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or

more land journeys as referred to in (1), (2), and (3) above, and shipped in the same equipment used for such land journey(s) without transloading; and

(f) the term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 4. DUTIES OF THE SECRETARY OF AGRICULTURE.

The Secretary of Agriculture shall be the competent authority to implement the agreement in order to ensure compliance with the standards specified therein and is hereby authorized to—

(a) designate appropriate organizations to inspect and/or test equipment;

(b) issue certificates of compliance in accordance with annex 1, appendix 1, paragraph 4 of the agreement;

(c) prescribe such regulations as may be deemed necessary to implement the agreement and administer this Act;

(d) make periodic onsite inspections of facilities and procedures used by those seeking certification and by organizations designated to test and/or inspect equipment under this Act;

(e) require submission of reports by those seeking certification and by organizations designated to test and/or inspect equipment under this Act;

(f) require maintenance of records by those seeking certification and by organizations designated to test and/or inspect equipment under this Act, such records to be made available to the Secretary upon request;

(g) inform contracting parties, through the Secretary of State, of all general measures taken in connection with the implementation of the agreement; and

(h) take such other action as may be considered appropriate to implement the agreement or administer this Act.

SEC. 5. DUTIES OF THE SECRETARY OF STATE.

The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the agreement.

SEC. 6. FEES FOR TESTING AND INSPECTION.

An organization designated by the Secretary of Agriculture to inspect or test equipment may establish reasonable fees to cover the costs of inspection or testing, such fees to be payable directly to the organization by those seeking inspection or testing.

SEC. 7. AUTHORIZATION AND APPROPRIATION.

There are hereby authorized to be appropriated to the Department of Agriculture for the fiscal year starting October 1, 1982, and for each fiscal year thereafter, such sums as are necessary but not to exceed $100,000 per fiscal year to carry out the provisions of this Act.

○

BRIEF EXPLANATION OF H.R. 6164

Section 1 cites the title of the Act as the "International Carriage of Perishable Foodstuffs Act".

Section 2 declares Congressional findings and purposes that:

(a) United States participated in the formulation of the ATP Agreement;

(b) Its provisions require testing, inspection and certification of equipment and the maintenance of specified temperatures;

(c) United States equipment will qualify for testing, inspection and certification; and

(d) This Act will improve the conditions for preservation of the quality of perishable foodstuffs during transport, in international trade, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs.

Section 3 defines the various terms used in the proposed Act.

Section 4 designates the Secretary of Agriculture as the competent authority to implement and administer the Act and prescribes his authority and duties to ensure compliance.

Section 5 notes the duty of the Secretary of State to take such action as the Secretary of Agriculture may deem necessary to protect the interests of the United States.

Section 6 provides that the Secretary of Agriculture designate an organization to conduct the testing and inspection of equipment and to charge reasonable fees for such services.

Section 7 authorizes an appropriation of $100,000 start-up funds necessary to put the program into operation.

After the legislation has been signed by the President, the United States Department of Agriculture, Office of Transportation, will promulgate regulations establishing a program for the testing and certification of temperature-controlled equipment. USDA will contract with the Bureau of Standards to establish initial standards for inspection. The testing function will be delegated to a qualified industry organization, probably the American Bureau of Shipping. The industry will bear the cost of inspections by paying user fees.

The Treaty is viewed as noncontroversial and has the support of the White House, the Departments of State, Agriculture, Transportation, and the Maritime Administration.

HISTORY, NEED AND PURPOSE OF H.R. 6164

A bill to implement the agreement on the International
Carriage of Perishable Foodstuffs and on the special
equipment to be used for such carriage (ATP),
and for other purposes

The Agreement on the International Carriage of Perishable Foodstuffs and the Special Equipment to be Used for Such Carriage (ATP) was developed under the auspices of the Economic Commission for Europe, a subsidiary body of the United Nations and consists of various European countries. Last year the Senate ratified the Agreement by a unanimous vote and the United States is now a member.

The objective of the Agreement is to establish uniform inspection requirements for transportation equipment which moves perishable foodstuffs across national borders. Contracting states are required to inspect and test the equipment, issue certificates of compliance and recognize the validity of certificates issued by other contracting states. There is exempted from the Agreement equipment used in sea voyages of more than 150 kilometers.

The Agreement applies to transportation between countries in Europe. United States' participation in the Agreement insures that transportation equipment of United States manufacturers used in intercountry shipments in Europe will not be subject to harassment by signatory governments.

The Agreement does not apply to shipments between the United States and Mexico or the United States and Canada. In addition, it does not apply to shipments by sea from the United States since the distance exceeds 150 kilometers.

The Senate, by a 92-0 vote, gave its advice and consent to the Treaty on March 20, 1980. Before the State Department can actually sign this Treaty, legislation must be enacted which would assign responsibility for administration of the Treaty to the Secretary of Agriculture. On May 5, 1982, the Senate Agriculture, Nutrition, and Forestry Committee unanimously approved S. 2351 to implement the Agreement.

Amendment Number 1

On page 4, line 23, insert the following immediately before the semicolon:

> ", including, but not limited to, provision for suspending or denying designation of organizations to inspect and test equipment and for refusing to issue certificates as may be necessary to ensure compliance with the provisions of this Act and the regulations issued thereunder".

Staff Explanation

As introduced, H.R. 6164 authorizes the Secretary to make inspections of, and to require the submission of reports and the maintenance of records by persons seeking certification of equipment and organizations designated to test and inspect equipment.

This proposed amendment would clarify the authority of the Secretary to make provision in the regulations to enforce the requirements of the Act by suspending or denying the designation of an organization to test and inspect equipment under the Act or refusing to issue a certificate, if necessary.

Amendment Number 2

On page 5, line 22, insert "(a)" immediately before "Any organization".

On page 6, between lines 2 and 3 insert the following new subsection:

"(b) The Secretary of Agriculture shall fix and cause to be collected reasonable fees to cover, as nearly as practicable, the costs to the Department of Agriculture incurred in connection with the issuance of certificates of compliance as provided under section 4(b) of this Act. All fees collected shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to the issuance of certificates under this Act.".

Staff Explanation

The proposed amendment would authorize the Secretary to charge a reasonable user fee to cover the cost of issuing certificates of compliance in connection with implementing the Agreement. The amendment would also provide that the fees collected would be available to pay the expenses of the Secretary in connection with issuing the certificates.

As introduced, H.R. 6164 authorizes organizations designated by the Secretary to test and inspect equipment to charge and collect fees for these services. However, only the Secretary can actually issue the certificates of compliance and the bill as introduced does not authorize a user fee for this service.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, May 13, 1982

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: International Carriage of Perishable Foodstuffs Act

Bill Nos. H.R. 6164

The Full ~~(Sub)~~ Committee

met in Open Session at 11:20 am. o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Bedell
Mr. English
Mr. Whitley
Mr. Daschle
Mr. Volkmer
Mr. Hatcher
Mr. Albosta
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Hagedorn
Mr. Coleman
Mr. Harlenee
Mr. Hopkins
Mr. Thomas
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Chris Aldrete, Special Counsel
Jerry Jorgensen, Minority Consultant
Peggy Pecore, Clerk
Charles Benbrook, Subc. Staff Director

Best Available Copy

Witnesses:

none

Statements Filed:

none

Tuesday, May 13, 1982
Full Committee
Business Meeting
International Carriage of
 Perishable Foodstuffs Act
H.R. 6164

Action taken:

--By voice vote ordered H.R. 6164, as amended, reported to the House in the presence of a quorum

Chairman de la Garza called the meeting to order and recognized Mr. Brown, Chairman of the Department Operations, Research, and Foreign Agriculture Subcommittee to explain the provisions of H.R. 6164 as reported from his Subcommittee. A Committee Print of the bill as reported is attached (see May 12, 1982, Subcommittee minutes for a brief explanation and a statement of history, need and purpose of the legislation).

Mr. Brown recommended that the Committee approve the bill as amended, and it was ordered reported to the House by a voice vote. The Chairman asked the clerk to call the roll to establish a quorum, and the following Members responded when their names were called:

PRESENT

1. Mr. Jones, Tenn.
3. Mr. Bedell
4. Mr. English
5. Mr. Whitley
6. Mr. Daschle
7. Mr. Volkmer
8. Mr. Hatcher
9. Mr. Albosta
10. Mr. de la Garza
11. Mr. Wampler
12. Mr. Findley
13. Mr. Hagedorn
14. Mr. Coleman
16. Mr. Hopkins
17. Mr. Thomas
18. Mr. Stangeland
19. Mr. Roberts, Kans.
20. Mr. Emerson
21. Mr. Napier
22. Mr. Morrison
23. Mr. Roberts, S. Dak.
24. Mr. Gunderson
25. Mr. Evans
26. Mr. Chappie

Thus, the H.R. 6164 was ordered reported to the House in the presence of a quorum.

The Committee adjourned at 11:45 a.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date May 13, 1982

(Sub) Committee: Conservation, Credit, and Rural Development

Meeting: Public Hearing

Subject: Review loan programs and lending policies of REA

Bill Nos. none

The Conservation, Credit, and Rural Development (Sub) Committee met in open Session at 10:16 a.m o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Jones (Tenn.)
Mr. Bedell
Mr. Daschle
Mr. Dorgan
Mr. Bowen
Mr. Harkin
Mr. English
Mr. Albosta
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Napier
Mr. Skeen
Mr. Roberts (S.D.)
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.

Also Present:

Mr. de la Garza (ex officio
Mr. Stenholm
Mr. Volkmer
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Staff present:

Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Gerald Welcome, Staff Assistant
Frank Winston, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Charles W. Stenholm, Member of Congress from Texas
2. Mr. Harold V. Hunter, Administrator, Rural Electrification Administration, U.S. Department of Agriculture

Statements Filed:

May 13, 1982
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review loan programs and lending
policies of REA

Chairman Jones called the hearing to order at 10:16 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

A brief recess was called at 11:02 a.m. to allow Members to respond to a call of the Floor of the House.

Chairman Jones asked unanimous consent that the record of this hearing remain open for five days after the usual time in order that questions might be submitted to and responded to by the Administrator of the Rural Electrification Administration. There being no objection, it was so ordered.

The Chair adjourned the hearing at 12:20 p.m. subject to a call of the Chair.

Christine D. Abram

Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date May 17, 1982

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Meeting: Public Field Hearing, Springfield, Illinois

Subject: 1982 Wheat, Soybean and Feed Grain Programs

Bill Nos.

The Wheat, Soybeans, and Feed Grains (Sub) Committee
met in open Session at 9:20 a.m. o'clock, in Room Agriculture Building

The following Members were present:

Mr. Foley
Mr. Findley
Mr. Evans of Iowa
Mr. Roberts of S. Dak.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.

Mr.
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Mr.
Mr.

Staff present: John Bailey, Minority Consultant

Witnesses:

Mr. Larry Werries, Director, Illinois Department of Agriculture

Mr. John White, Jr., Vice President, Illinois Farm Bureau

Mr. Harold Dodd, President, Illinois Farmers Union

Mr. Nicholas Demerath, Illinois American Agriculture Movement
Accompanied by Mr. Bill Rowe

Mr. Dain Friend, President, Illinois Corn Growers Association

Mr. Jerry Gates, President, Land of Lincoln Soybean Association

Mr. John (Jack) Rundquist, Chairman, National Legislative Committee, National Pork Producers Council
Accompanied by Mr. Ervil Borgic, President, Illinois Pork Producers Council

Mr. Vernon R. McMinimy, Corn Refiners Association

Mr. Bill McChristy, President, State Bank of Blue Mound, Ill.

Mrs. Trenna R. Grabowski, Farmer

Mr. Lloyd E. Reeser, Farmer

Mr. Martin J. Hoffman, Farmer

Mr. Alvin M. Mavis, Alenco

Statements Filed:

Mr. Kenneth L. Satterlee, Farmer

Mrs. Deonne Orvis, Illinois Farmland Coalition

Mr. Mirko Popovich

Mr. Wayne Archer, Farmer

Mr. John Glynn

Mr. Robert Lienhart, Professional Farm Manager

Mr. Thorton Leatherby

Monday, May 17, 1982
Wheat, Soybeans, and Feed Grains
Subcommittee
Field Hearing, Springfield, Illinois
1982 Wheat, Soybeans and Feed Grains
programs and general farm economy.

Mr. Findley, Ranking Minority Member of the Subcommittee, called the meeting to order at 9:20 a.m. At 9:40 a.m., Mr. Foley, Chairman of the Subcommittee, arrived to chair the remainder of the hearing.

Testimony was heard from 13 witnesses, and members of the subcommittee questioned each. The meeting adjourned at 12:53 p.m.

John Bailey
John Bailey

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, May 19, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Hearing

Subject: Application of computer-based information systems and services in agriculture

Bill Nos. None

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee

met in Open Session at 9:05 am o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Brown
Mr.
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Mr.
Mr.

Staff present:

Skip Stiles, Legislative Assistant to Mr. Brown
Jerry Jorgensen, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Mr. Raymond D. Lett, Executive Assistant to the Secretary, U.S. Department of Agriculture, Washington, D.C.,
   accompanied by: Mr. Ernie Matthias, Jr., Information Resource Management, Office of the Secretary

2. Mr. Harold A. Scott, Director, Videotext, Tandy Corporation, Fort Worth, Texas,
   accompanied by: Mr. Charles A. Phillips, Senior Vice President for U.S. Operations
   Mr. Ronald Stegall, Senior Vice President for Computer Services

3. Dr. Glenn Wilde, Assistant Dean for Extension, Utah State University, Logan, Utah
   accompanied by: Dr. Richard C. Haycock, Associate Dean

4. Mr. John C. Datt, Secretary and Administrator, American Farm Bureau Federation, Washington, D.C.

Statements Filed:

NONE

Wednesday, May 19, 1982
Subcommittee on Department Operations,
 Research, and Foreign Agriculture
Public Hearing
Applications of computer-based
 information systems and services in
 agriculture

Chairman Brown called the meeting to order and welcomed Members of the Canadian Parliament who were visiting as a part of an exchange program between Canada and the United States, and who were sitting with the Subcommittee.

Mr. Brown introduced Senator Bonnell who in turn introduced the Membes of Parliament and one Member of the Alberta, Canada, State Assembly.

The Chairman made a brief statement about the purpose of the hearing and invited all members of the audience to sign up for one of the several workshops scheduled to be held in the afternoon at the Library of Congress.

The witnesses listed on page two presented their testimony, after which they answered questions as appearing in the record.

The Chairman announced these hearings would be continued at 9:00 a.m. on Thursday, May 20, 1982, whereupon the Subcommittee adjourned at 11:56 a.m., to reconvene at 2:30 p.m. this date to hold a hearing on H.Con.Res. 337.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, May 19, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Hearing

Subject: Expressing the sense of the Congress concerning the health of the Agricultural community, in light of the Wayne Cryts Affair

Bill Nos. H.Con.Res. 337

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee met in Open Session at 3:10 pm o'clock, in Room 1301 LHOB

The following Members were present: ALSO PRESENT:

Mr. Brown	Mr. Wampler	Mr. Bedell
Mr. de la Garza, ex	Mr. Emerson	Mr. Volkmer
Mr. officio	Mr. Evans	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Bob Lowerre, Associate Counsel
John Hogan, Minority Counsel
Charles Benbrook, Subc. Staff Director
Jerry Jorgensen, Minority Consultant
Bernie Brenner, Press Secretary
Peggy Pecore, Clerk

Witnesses:

1. Mr. Wayne Cryts, farmer, from Puxico, Missouri

Statements Filed:

NONE

U.S. GOVERNMENT PRINTING OFFICE [illegible]

Wednesday, May 19, 1982
Subcommittee on Department Operations, Research, and Foreign Agriculture
Open Hearing
Expressing the sense of Congress concerning the health of the agricultural community, in light of the Wayne Cryts affair
H.Con.Res. 337

Chairman Brown called the meeting to order and recognized the Chairman of the full Committee, Mr. de la Garza, for remarks. Chairman de la Garza explained to Mr. Cryts that while this Committee did not have jurisdiction over bankruptcy law nor actions taken by the Federal courts, the Committee was interested in documenting his experiences.

Mr. Cryts was recognized to present his testimony, after which he responded to questions from Members as appearing in the record.

Mr. de la Garza chaired the meeting from 3:30 until the Subcommittee adjourned at 3:45 p.m., to reconvene at 9:00 a.m. on Thursday, May 20, 1982, to hear additional witnesses on the application of computer-based information systems and services in agriculture.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, May 20, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Application of computer-based information systems and services in agriculture

Bill Nos. None

The Department Operations, Research, and Foreign / Agriculture (Sub) Committee met in Open Session at 9:10 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Brown
Mr. Wampler
Mr.
Mr.
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Staff present:

Skip Stiles, Legislative Assistant to Mr. Brown
Jerry Jorgensen, Minority Consultant
Anita Brown, Staff Assistant
Tom Adams, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

1. Mr. Alfred T. Fritts, Co-Publisher and Editor, The Bakersfield Californian, Bakersfield, California, and
   Mr. Neil A. Baird, Vice President, Marketing, Informat, 164 Merlon Street, Ontario, Canada M4S 3A8
2. Dr. James Kendrick, Professor of Agricultural Economics, University of Nebraska, Lincoln, Nebraska, and
   Mr. Richard J. Cannon, Assistant Administrator, International Agricultural Statistics, Foreign Agricultural Service, USDA
3. Mr. Roy A. Meek, Manager, Eastern Lamb Producers Association, Pulaski, Virginia, and
   Mr. Kenneth S. Neel, General Manager, Electronic Marketing Association, Inc., P.O.Box 722, Christiansburg, Virginia 24073

Statements Filed:

NONE

Thursday, May 20, 1982
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Public Hearing
Application of computer-based
information systems and services in
agriculture

Chairman Brown called the meeting to order and recognized Mr. Wampler who could not be present the previous day, for remarks. He welcomed the witnesses and other participants and explained it would not be possible for him to remain for the entire session. He made note of the fact that one of the witnesses, Mr. Meek, was from his Congressional District.

The witnesses presented their testimony and responded to questions as appearing in the record.

The Subcommittee adjourned at 11:55 a.m., to reconvene at 2:00 p.m., this date, to hear reports from group leaders of the workshops held on May 19.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, May 20, 1982 - P.M.

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Meeting: Public Hearing

Subject: Application of computer-based information systems and services in agriculture

Bill Nos. None

The Department Operations, Research, and Foreign Agriculture (Sub) Committee

met in Open Session at 2:35 pm o'clock, in Room 1302 LHOB.

The following Members were present:

Mr. Brown
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Staff present:

Skip Stiles, Legislative Assistant to Mr. Brown
Jerry Jorgensen, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Private Sector Information Services:
   Group Leader: Mr. Ray Daniels, Chase Econometrics, Bala Cynwyd, Pa.
   Rapporteur: Mr. Gerry Sophar, Field and Special Programs Division, USDA/NAL
2. Government Information Services: Management and Marketing;
   Group Leader: Dr. Buel F. Lampher, Program Leader, Farm Management Extension Service, USDA
   Rapporteur: Mr. Harold Walker, Farm Management Extension Specialist, Virginia Polytechnic Institute and State University, Blacksburg, Virginia
3. Government Information Field Operations:
   Group Leader: Dr. James Lyons, Assistant Director, Experiment Station, University of California, Davis, California
   Rapporteur: Mr. Howard Lehnert, National Program Leader, Agricultural Weather and Videotext, USDA
4. User Requirements:
   Group Leader: Dr. Russell Youmans, Director, Western Rural Development Center, Oregon State University, Corvallis, Ore.
   Rapporteur: Mr. David Hoyt, Leader for Training and Education, USDA/NAL
5. System Implementation: Hardware Installation, Training, Maintenance, Software and Data File Modification:
   Group Leader: Dr. John M. (Mike) Brazzel, Organizational Consultant, Washington, D.C.
   Rapporteur: Mr. Mark Nestle, Deputy Director, Planning and Analysis, USDA/FHA
6. Present and Projected Technology:
   Group Leader: Dr. David L. Holder, Program Leader, Livestock and Meat Marketing Extension Services, USDA
   Rapporteur: Mr. Fred Weingarten, Study Director, National Information Systems, Office of Technology Assessment, Washington, D.C., represented by Mr. Jerry Paulsen, Extension Service,USDA

Statements Filed:

None

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Thursday, May 20, 1982 - P.M.
Subcommittee on Department Operations,
Research, and Foreign Agriculture
Public Hearing
Application of computer-based systems
and services in agriculture

Chairman Brown called the meeting to order for the purpose of hearing reports from group leaders and rapporteurs of the six workshops which had been conducted on the afternoon of May 19.

Each group's report and recommendations were presented in the order listed on page two, after which the participants responded to questions as appearing in the record.

Chairman Brown announced the hearings would be printed and that an analytical report would be prepared and printed in the form of a Committee Print.

The Subcommittee recessed at 3:25 p.m. for 10 minutes to enable Members to respond to a vote on the House Floor.

Mr. Brown made a closing statement in which he thanked all persons who had participated in the hearings and workshops, whereupon the Subcommittee adjourned at 4:40 p.m., to meet again at the call of the chair.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, May 25, 1982

(~~Sub~~) Committee: Full

Meeting: Public Hearing

Subject: Farm Crisis Act of 1982

Bill Nos. H.R. 6274

The Full (~~Sub~~) Committee

met in Open Session at 10:00 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Rose
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Fithian
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm

Mr. Volkmer
Mr. Dorgan
Mr. Albosta
Mr.
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Mr.

Mr. Wampler
Mr. Hagedorn
Mr. Coleman
Mr. Marlenee
Mr. Hansen
Mr. Stangeland
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Gunderson
Mr. Chappie
Mr.
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Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Jim Johnson, Staff Assistant
Jerry Jorgensen, Minority Consultant
Floyd Gaibelr, Minority Consultant
Dave Ebersole, Minority Consultant
Peggy Pecore, Clerk

Witnesses:

1. Mr. Charles Wofford, Cotton & Grain Producers of the Lower Rio Grande Valley, Raymondville, Texas
2. Mr. Marvin Meek, American Agriculture Movement, Washington, D.C.
3. Mr. Dale Angel, Director, Legislative Research and Policy Development, Midcontinent Farmers Association, Columbia, Missouri
4. Mr. Gibson Gray, farmer, Fairland, Indiana
5. Panel:

    Mr. George Pettit, farmer, Princeton, Kentucky

    Mr. Martin J. Hoffman, farmer, Hebron, Indiana

    Mr. Lawrence Carter, farmer, Hebron, Indiana

    Mr. Ron Brown, farmer, Lowell, Indiana

    Mr. Bob Leader, farmer, Brookston, Indiana

Statements Filed:

1. Honorable William C. Wampler, Member of Congress from Virginia
2. American Cotton Shippers Association
3. National Cotton Council
4. National Farmers Organization
5. National Rural Electric Cooperative Association
6. Delta Council

[illegible]

Tuesday, May 25, 1982
Full Committee
Public Hearing
Farm Crisis Act of 1982
H.R. 6274

Chairman de la Garza called the meeting to order for the purpose of hearing out-of-town witnesses' testimony on H.R. 6274.

The first four witnesses presented their statements individually after which they were questioned as a panel by Members of the Committee.

The remaining witnesses presented their testimony as a panel and responded to questions as appearing in the record.

The Chairman announced the record would remain open for any additional materials any of the witnesses would like to submit, whereupon, the meeting was adjourned at 12:56 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Monday, June 7, 1982

(Sub) Committee: Wheat, Soybeans, & Feed Grains

Meeting: Public Field Hearing, Rapid City, South Dakota

Subject: Review of farm commodity stabilization program

Bill Nos.

The Wheat, Soybeans, & Feed Grains (Sub) Committee

met in open Session at 8:00 am o'clock, in Room Alex Johnson Hotel

The following Members were present:

Mr. Foley
Mr. Daschle
Mr. Albosta
Mr. Roberts, S.Dak.
Mr.
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Staff present:

Eugene, Moos, Subcommittee Staff Director

Witnesses:

1. Carrol McKenna, South Dakota Farmers Union Board of Directors, Zeona, South Dakota 57795
2. Wayne Nelson, President, National Association of Wheat Growers, Box 667, Winner, South Dakota 57580
3. Mike Held, Adm. Director, South Dakota Farm Bureau, Kimball, S.D. 57355
4. LuVerne Jensen, South Dakota American Agriculture Movement, Route 1, Erwin, South Dakota 57233
5. Rueben Deutscher, President, West River Elect. Assn., Wall, S.D. 57790
6. David Westbrock, General Manager, B-Y Electric Coop., Tabor, S.D. 57063
7. Don Loobey, South Dakota Meat Promoters, Whitewood, S.D. 57790
8. Leroy D. Schecher, Gen. Mgr., Grand Electric Coop., Bison, S.D. 57620
9. Joyce Jobgen, South Dakota AAM, Route 2, Box 510, Scenic, S.D. 57780
10. Marilyn Saathoff, South Dakota WIFE, Gregory, South Dakota 57533
11. Norma Hall, National WIFE, Route 1, Box 24, Elmwood, Nebraska 68349
12. Rodney Hall, Farmer, Route 1, Box 72, Fulton, South Dakota 57340
13. William Bullard, Rancher, Box 119, Prairie City, South Dakota 57534
14. Lance Ekberg, Farmer, Route 1, Box 39, Hamill, South Dakota 57534
15. Neil Spaid, Farmer, Route 1, Box 2A, Blunt, South Dakota 57522
16. Keith Keffeler, Farmer, Box 18, Hereford, South Dakota 57743
17. Duane Shea, Farmer, Box 269, Bison, South Dakota 57620
18. Byron C. Dale, Farmer, South Dakota
19. Kent Jones, Commissioner of Agriculture of North Dakota, Capitol Building, Bismark, North Dakota 58505
20. Richard Konzak, Director, North Dakota Farm Bureau, Route 1, Box 96, Devils Lake, North Dakota 58301
21. Karl Limvere, Special Assistant to President, North Dakota, Farmers Union, Box 651, Jamestown, North Dakota 58401
22. Jim Brophy, Vice President, Rocky Mountain Farmers Union, 47630 County Road N., Yuma, Colorado 80759
23. James Monfore, M.D., Miller, South Dakota 57362
24. Wayne Peterson, Former Rancher, Holabird, South Dakota 57540
25. Bud Cooper
26. Jack D. Fanning, Farmer, Saint Lawrence, South Dakota 57373

Monday, June 7, 1982
Wheat, Soybeans, and Feed Grains
Subcommittee
Public Field Hearing, Rapid City,
South Dakota
Review of farm commodity
stabilization program

Mr. Foley, Chairman of the Subcommittee, called the hearing to order at 8:00 a.m. After short welcoming addresses by Congressmen Tom Daschle (D.-South Dakota) and Clint Roberts (R.-South Dakota) testimony was taken from 26 witnesses as listed on page two of these minutes. Included in the witness group were farmers, representatives of the general farm organizations, the commodity groups, extension economists and representatives of South Dakota Rural Electrification Associations.

All witnesses discussed the difficult economic circumstances presently facing most grain farmers in the Central and Northern Plains, citing specifically the cost/price squeeze affecting grain producers.

The hearing was adjourned at 1:00 p.m. after all witnesses had been heard and questioned.

Gene Moos

Gene Moos

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date June 8, 1982

(Sub) Committee: Forests, Family Farms, and Energy

Meeting: Business

Subject: Mt. St. Helens National Volcanic Area Act

Bill Nos. H.R. 5773

The Forest, Family Farms, and Energy (Sub) Committee met in open Session at 10:15 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Weaver
Mr. Bedell
Mr. Huckaby
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hansen
Mr. Skeen
Mr. Morrison
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Staff present:

Greg Skillman, Subcommittee Staff Director
Dick Fritz, Minority Consultant
Bernard Brenner, Press Secretary
Robert T. Lowerre, Associate Counsel
John E. Hogan, Counsel
Bob Bor, Chief Counsel
Christine D. Abram, Staff Assistant

Witnesses:

The following were present from the Forest Service to respond to questions:

1. Mr. Donald S. Girton, Legislative Affairs Staff
2. Mr. Charles R. Joy, Recreation Management Staff

Statements Filed:

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June 8, 1982
Forests, Family Farms, and Energy
Subcommittee
Business Meeting
Mount St. Helens National Volcanic Area
Act of 1982
H.R. 5773

Action Taken:

-- Morrison amendment in the nature of a substitute for H.R. 5773 adopted as original text for this day's markup without objection.

-- Morrison amendment to the Weaver substitute, page 10, line 2, approved without objection.

-- Morrison amendment to the Weaver substitute, page 8, line 3, withdrawn without objection.

-- Morrison amendment to Weaver substitute, page 12, line 2, as adjusted, approved without objection.

-- Morrison amendment to Weaver substitute, page 4, line 22, approved by voice vote.

-- Morrison amendment to Weaver substitute, page 14, line 1, approved by voice vote.

-- Same Morrison amendment, this time to Morrison substitute, approved without objection.

-- By rollcall vote 9 yeas-6 nays Weaver substitute, as amended, approved by subcommittee.

-- Morrison motion that H.R. 5773, as amended, be reported favorably to full Committee with a special request that it be handled as expeditiously as possible approved by voice vote.

Chairman Weaver called the meeting to order at 10:15 a.m. for the purpose of marking up H.R. 5773 dealing with the Mount St. Helens National Volcanic Area.

The Chair recognized Mr. Morrison, who asked unanimous consent that H.R. 5773 be printed in the record, open for amendment, and the substitute therefor which he submitted be considered as the original text for the purposes of this day's markup. There being no objection, it was so ordered.

H.R. 5773 as introduced appears as Exhibit 1 appended to these Minutes; Mr. Morrison's substitute appears as Exhibit 2.

Mr. Morrison explained the provisions of his substitute and spoke of a letter from Mr. John B. Crowell of the U.S. Forest Service dated June 7, 1982, describing the concerns of that agency for the additions of certain acreage; this letter was ordered to be printed as a part of the record and appears as Exhibit 3 to these Minutes.

Mr. Weaver offered, as a substitute for the Morrison bill, the text of H.R. 6530, as introduced by Mr. Bonker, Mr. Foley, and others. This bill appears as Exhibit 4 appended to these Minutes. He incorporated into his substitute various amendments that were appended thereto. See Exhibit 5 appended to these Minutes. Mr. Weaver then proceeded to outline the differences between the original so-called Forest Service draft and the Weaver substitute, H.R. 6530.

Representatives of the U.S. Forest Service, listed on page 2 of these Minutes, were called forward to join the discussion, which then ranged around the problem of the value of the land and of the timber involved.

Mr. Morrison offered an amendment to the Weaver substitute, page 10, line 2. This amendment appears as Exhibit 6 as appended to these Minutes. After Mr. Morrison's explanation of the amendment, it was approved without objection.

Mr. Morrison then offered another amendment to the substitute, page 8, line 3; this amendment appears as Exhibit 7 to these Minutes. After some discussion of this matter, Mr. Morrison asked to withdraw his amendment and review his concerns before the issue reaches the full Committee; without objection, it was so ordered.

Mr. Morrison then offered another amendment, to page 12, line 2; this amendment appears as Exhibit 8. Mr. Morrison outlined the differences between the Scientific Advisory Board as constructed in his amendment and the Scientific Advisory Commission in the Weaver substitute. He asked unanimous consent that his amendment be adjusted to provide continuity on this board during its 10-year life. Without objection, his request was ordered incorporated into the amendment by the staff. Then without objection the amendment was approved.

Mr. Morrison then moved to strike, on page 4, line 22, of the substitute, the words "donation or", so that line 22 would read:

"acquired only by exchange."

By voice vote, Mr. Weaver refraining from voting, the amendment was approved.

Mr. Morrison then offered another amendment, to page 14, line 1, inserting a new section; see Exhibit 9 for this text. After discussion of the proposal, the subcommittee approved the amendment by voice vote.

Counsel raised a question as to language appearing in the Morrison bill and the Weaver substitute relating to appropriations and compliance with the Budget Act that may not be necessary for this purpose, but which could frustrate the purposes of the bill. With the understanding that the full Committee would pass upon any language Counsel may come up with to resolve this matter, Counsel's suggestion to develop such language was approved without objection.

Mr. Morrison also asked unanimous consent that the Skamania County amendment (Exhibit 9) be applied to the Morrison substitute; without objection, that was so ordered.

The subcommittee then voted on the substitute offered by Mr. Weaver, as amended. Responding to a request for a recorded vote, the clerk was ordered to call the roll. The vote follows:

Yeas

1. Mr. Foley (proxy to Mr. Weaver)
2. Mr. Brown (proxy to Mr. Weaver)
3. Mr. Bedell
4. Mr. Huckaby (proxy to Mr. Weaver)
5. Mr. Panetta (proxy to Mr. Weaver)
6. Mr. Daschle (proxy to Mr. Weaver)
7. Mr. Dorgan (proxy to Mr. Weaver)
8. Mr. Albosta (proxy to Mr. Weaver)
9. Mr. Weaver

Nays

1. Mr. Marlenee (proxy to Mr. Morrison)
2. Mr. Hansen (proxy to Mr. Morrison)
3. Mr. Stangeland (proxy to Mr. Morrison)
4. Mr. Skeen (proxy to Mr. Morrison)
5. Mr. Morrison
6. Mr. Chappie (proxy to Mr. Morrison)

There being 9 yea votes and 6 nay votes, the motion was approved.

Mr. Hogan conveyed Mr. Marlenee's request that the record reflect that there was a primary election in Montana and he was unable to attend the meeting. Mr. Weaver remarked that Mr. Brown was also absent, in California for the primary election in that state.

Mr. Morrison moved that H.R. 5773, as amended by the subcommittee, be reported favorably to the full Committee with a special request that, because of the nature of this matter, it be handled as expeditiously as possible by the full Committee. There being no further discussion, the subcommittee approved the motion by voice vote.

The Chairman asked unanimous consent that staff have authority to make any necessary technical changes; there being no objection, it was so ordered.

The Chair then adjourned the meeting at 11:50 a.m. subject to the call of the Chair.

Christine D. Abram
Christine D. Abram

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97TH CONGRESS
2D SESSION

H. R. 5773

To designate certain lands in the State of Washington as a national volcanic area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1982

Mr. MORRISON (for himself and Mr. FOLEY) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Agriculture

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A BILL

To designate certain lands in the State of Washington as a national volcanic area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mount Saint Helens National Volcanic Area Act of 1982".

DESIGNATION OF NATIONAL VOLCANIC AREA

SEC. 2. (a) That in furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest, Washington, which comprise of approximately eighty-four thousand seven hundred acres, as generally depicted on a map entitled "Mount St. Helens National

Volcanic Area, October 15, 1981", are hereby designated as the Mount Saint Helens National Volcanic Area (hereinafter referred to as the "volcanic area").

(b) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file a map and a legal description of the volcanic area designated under subsection (a) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographic errors in such legal description may be made.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 3. (a) The exterior boundary of the Gifford Pinchot National Forest in the State of Washington, is hereby modified to include approximately twenty thousand additional acres in Cowlitz County, as generally depicted on the map referenced in section 2 of this Act.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ADMINISTRATION

SEC. 4. (a) The volcanic area designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act, appropriate laws pertaining to administration of the national forest system, the Mount Saint Helens management plan prepared by the Forest Service, United States Department of Agriculture or subsequent revisions of that plan, or other applicable forest plans prepared in accordance with existing law.

(b) In furtherance of the purposes for which the volcanic area is established, the Secretary is authorized and directed to acquire all non-Federal lands and interests therein within the boundaries of the volcanic area by exchange, purchase with donated or appropriated funds, or donation: *Provided*, That any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange or donations.

(c) In recognition of the rapidly deteriorating nature of much of the timber in the volcanic area, any timber acquired pursuant to this section shall be valued at an amount not less than the fair market value of such timber on July 1, 1982.

(d) Lands and interests therein acquired pursuant to this section shall become national forest system lands under the jurisdiction of the Secretary to be managed in accordance with the provisions of this Act and other laws applicable to the management of the national forest system.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is hereby authorized to be appropriated for such sums as may be necessary to carry out the provisions of this Act.

○

Exhibit

FINAL DRAFT - SUBCOMMITTEE

FINDINGS

SECTION 1. The Congress finds that:

(1) Mount St. Helens is a resource of international significance, with inestimable scientific value, and vast potential educational and recreational benefits;

(2) the resource includes, but is not limited to, the geologic features of the lateral blast and avalanche of the 1980 eruption, recent and prehistoric lava, mud, and pyroclastic flows, tephra deposits, lava caves, batholiths, intrusive plugs and other igneous features, lakes and river courses, ecological features such as old growth forests, meadow, riparian and alpine communities, ecological responses to geologic processes, and cultural resources from prehistoric, historic, and recent time; and

(3) for the benefit and enjoyment of present and future generations of the American people a comprehensive area surrounding Mount St. Helens, which contains both unique ecologic and geologic features, communities and landforms, and those which, by contrast, are characteristic of the region, should be preserved.

ESTABLISHMENT OF NATIONAL VOLCANIC AREA

SEC. 2. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately ninety-eight thousand five hundred acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Area, June 1, 1982," are hereby designated as the Mount Saint Helens National Volcanic Area (hereafter in this Act referred to as the "volcanic area").

(b)(1) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file a map and a legal description of the volcanic area designated under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map and description shall be on file and available for public inspection in the office of the Forest Supervisor, Gifford Pinchot National Forest, and in the office of the Chief of the Forest Service, U.S. Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor revisions of the boundary of the volcanic area. No single boundary revision involving contiguous acreage may include more than 320 acres. Such a minor boundary revision may be made by the Secretary only after publication of notice of the proposed

revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least 60 days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 3. (a) The exterior boundary of the Gifford Pinchot National Forest in the State of Washington, is hereby extended to include all lands and waters within the boundaries of the volcanic area. Lands and interests therein acquired pursuant to section 4 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ACQUISITION

SEC. 4. (a) The Secretary is authorized and directed to acquire all lands and interests in lands within the boundaries of the volcanic area by donation, exchange, or purchase with donated or appropriated funds. Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange.

(b) In recognition of the rapidly deteriorating nature of much of the timber in the volcanic area, any timber acquired pursuant to this section shall be valued for purposes of any acquisition under subsection (a) at an amount not less than the fair market value of such timber on July 1, 1982.

(c)(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to exchange lands and interests in lands in accordance with the provisions of this subsection. ~~With~~ respect to the lands and interests in lands referred to in paragraphs (2) and (3), the Secretary may exercise the authorities of subsection (a) only to the extent necessary to acquire any lands or interests in lands which are not acquired pursuant to the provisions of this subsection.

(2) If Burlington Northern, Incorporated, offers to the United States the following-described lands and interests therein, consisting of ________ acres of land, more or less, the Secretary shall accept such lands and interests therein:

[DESCRIPTION OF LANDS TO BE INSERTED]

Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Burlington Northern, Incorporated, all right, title, and interest of the United States to the following described national forest system lands and interests therein, consisting of ________ acres of land, more or less, subject to the reservations noted in the following description (and subject to any additional reservations provided pursuant to paragraph (4)):

[DESCRIPTION OF LANDS TO BE INSERTED]

(3) If the Weyerhaeuser Company offers to the United States the following described lands and interests therein, consisting of ________ acres of land, more or less, the Secretary shall accept such lands and interests therein:

[DESCRIPTION OF LANDS TO BE INSERTED]

Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to the Weyerhaeuser Company all right, title, and interest of the United States to the following described national forest system lands and interests therein, consisting of ________ acres of land, more or less, subject to the reservations noted in the following description (and subject to any additional reservations provided pursuant to paragraph (4)):

[DESCRIPTION OF LANDS TO BE INSERTED]

(4) The instruments of conveyance respecting the lands and interests exchanged under this subsection may contain such reservations as may be agreed upon by the Secretary and Burlington Northern, Incorporated, or the Weyerhaeuser Company, as the case may be, including reservations with respect to the conveyance of mineral and geothermal rights.

(5) It is the sense of the Congress that the transactions necessary to effect the conveyances of title to lands referred to in this subsection should be completed within ninety days after the date of the enactment of this Act,

except that in the case of mineral and geothermal rights, such transactions shall be completed within one year after such enactment. The rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.

(6) The Secretary shall certify in writing to his satisfaction, at the time of conveyance, that there has been no reduction in the values of the lands or interests therein, caused by a direct action on the part of the current land owner, below that which formed the basis for the exchanges provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred, caused by direct action of a current land owner, the Secretary shall not carry out the exchange for those lands or interests under this subsection, and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with the provisions of subsection (a).

(7) Any exchange of lands or interests in land pursuant to this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern, Incorporated, or the Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement. This Act shall not affect any prior contractual obligation of Burlington Northern Timberlands, Incorporated, or of the Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement.

ADMINISTRATION

SEC. 5.. (a) The Secretary shall administer the volcanic area in accordance with the Mt. St. Helens management plan and in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act..

(b) The Secretary shall manage the volcanic area to protect the geologic, biologic, and cultural resources found there in as natural a state as possible, allowing primarily natural geologic forces and ecological succession to continue unimpeded, except that --

(1) the Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the volcanic area or (B) cause substantial damage to significant resources adjacent to the volcanic area, and

(2) in the case of any emergency which may threaten human life or property, the Secretary, acting through authorized personnel of the Forest Service, may take any action which such personnel deem necessary for the protection of human life or property.

Any action taken under paragraph (1) shall be the minimum necessary to prevent or reduce the unacceptable endangerment or damage, and any such action (other than emergency action to control fire) shall be based on a written finding of need. Such finding shall include an assessment of alternative courses of action.

(c) The Secretary shall permit the full use of the volcanic area for legitimate scientific study and research, except that he may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the volcanic area. Nothing in this Act shall be construed to prohibit reasonable use of motorized equipment (including aircraft landings) to place and service scientific equipment or to provide access for research purposes.

(d)(1) The Secretary shall provide for recreational use of the volcanic area, except that he may impose such restrictions on any visitation within the volcanic area as he deems necessary for the protection of public health and safety, the resources of the volcanic area, and scientific research activities within the volcanic area. The Secretary shall provide recreational and interpretive facilities (including public access and campgrounds) for the use of the public which are compatible with the purposes of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. (2) Roads or other developed facilities within the volcanic area should be located generally in areas which were developed prior to the 1980 eruption and which are still readily apparent on the ground. Roads no longer needed for proper administration of the volcanic area shall be obliterated by man-made actions or by allowing natural forces to occur. Temporary or permanent road access may be built within portions of the volcanic area where the Secretary determines there is no reasonable alternative for the purpose of timber salvage outside the volcanic area.

(e) Subject to valid existing rights, all lands and waters within the volcanic area are hereby withdrawn from disposition under the public land laws, from location, entry, and patent under the United States mining laws, from the operation of the United States mineral leasing laws, and from the operation of the Geothermal Steam Act of 1970. Any mining activity carried out pursuant to valid existing rights shall be conducted in such manner as will maintain the water quality in existence in the affected area immediately prior to the commencement of such activity.

(f) The Secretary shall permit hunting and fishing on lands and waters within the volcanic area in accordance with applicable Federal and State law, except that the Secretary in cooperation with State agencies may designate zones within the volcanic area and establish periods when no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(g) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 2(b), a detailed and comprehensive management plan for the volcanic area. The plan shall include but not be limited to:

(1) measures for the preservation of the natural geological and ecological integrity of the resources;

(2) indications of types, locations and general intensities of development and access routes associated with the public understanding, use and enjoyment of the area, including anticipated timing and costs;

(3) identification and implementation plans for visitor carrying capacities of the area; and

(4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

SCIENTIFIC ADVISORY BOARD

SEC. 6. (a) There is hereby established the Mount Saint Helens Scientific Advisory Board (hereinafter referred to as the "Board). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to the measures needed to protect and manage the natural and scientific values of the National Volcanic Area. The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the volcanic area designed to gain scientific information for future interpretation and enjoyment by visitors to the National Volcanic Area. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines. Members shall be appointed by the Secretary for terms of three years, as follows:

(1) Three qualified members selected by the Secretary (one of which shall be a professional employee of the U.S. Forest Service);

(2) Two members appointed by the Secretary of the Interior (one of which shall be a professional employee of the United States Geological Survey);

(3) Two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington (one of which shall be from the Department of Fisheries and one of which shall be from the Department of Game); and

(4) Two members selected by the Chairman of the National Science Foundation.

(c) The members of the Board shall be appointed within ninety days of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(d) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to potential and ongoing research programs within the Area.

(e) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chair, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(f) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(g) The Board shall terminate ten years from the date of its first meeting.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated for fiscal years commencing after September 30, 1983, such sums as may be necessary to carry out the provisions of this Act.

COMPLIANCE WITH BUDGET ACT

SEC. 8. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D C 20250

JUN 7 1982

Honorable James Weaver
Chairman, Subcommittee on Forests,
  Family Farms and Energy
Committee on Agriculture
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I understand that the House Subcommittees with jurisdiction over the pending legislation dealing with proposals to establish the Mount St. Helens volcanic area are currently considering legislative alternatives.

As you know, the Forest Service in October 1981 administratively designated 84,700 acres of the Mount St. Helens area as a National Volcanic Area. This was done after careful consideration of different proposals advocating that the specially designated area be anywhere from 45,000 acres to 216,000 acres. The final administrative decision balanced the interests (1) in preserving the area affected by the volcano's blast of May 18, 1980, (2) in permitting salvage of timber killed by the blast, (3) in holding down the cost of acquiring intermingled private land as part of the area to be designated, (4) in limiting reductions in future timber production and harvest levels which would result from the special designation, (5) in providing the potential mineral development within the Green River drainage, (6) in providing for research needs, and (7) in assuring public safety, including the reduction of huge fuel accumulations presently existing which could permit future forest fires to get out of control.

The Administration has supported statutory designation of the 84,700-acre area as a National Volcanic Area. The Administration, however, is opposed to enlargement of the area because it would upset the balancing of interests which was carefully achieved after much deliberation by the original administrative designation.

I enclose a paper which discusses briefly, but in some detail, the various considerations which have led us to conclude that the Administration cannot support any legislation which would result in special designation of more than the 84,700-acre area already administratively designated. I hope that you will reach the same conclusions we have after you have considered the points discussed in the enclosed paper.

Sincerely yours,

JOHN B. CROWELL, JR.
Assistant Secretary for
Natural Resources and Environment

Enclosure

ADMINISTRATION CONCERNS REGARDING PROPOSED LEGISLATION FOR MOUNT ST. HELENS

BACKGROUND

The Administration supports legislation designating an 84,700-acre Mount St. Helens National Volcanic Area. The 84,700-acre National Volcanic Area includes 24,510 acres of State and private lands. The Administration proposed acquisition of approximately 15,000 acres of State and private lands through exchange or donation.

A proposal being developed in the House would substantially increase the size of the volcanic area and direct acquisition of all State and private lands within the area. This proposal includes two to three times more productive forest lands, timber volumes, and values than the Administration's proposal. It would result in significant increased costs because of more land acquisition, foregone timber salvage opportunities, and reduced future timber harvest levels on the Gifford Pinchot National Forest. The reduced salvage opportunities would greatly increase the potential for a major wildfire conflagration which would be uncontrollable during periods of very high and extreme fire hazard. These and other concerns are described in greater detail below.

INCREASED WILDFIRE HAZARD

More than 80 percent of the blast area is characterized by heavy volumes of downed trees and other vegetative debris, amounting to 300 tons per acre in many locations. These fuels create the potential for a major conflagration. One objective of timber salvage outside the volcanic area is to reduce the hazard of wildfire so as to prevent the spread to adjacent undamaged National Forest and private forest lands. Timely timber salvage in key areas will substantially reduce this high potential hazard. The House proposal would reduce planned timber salvage by 29 percent.

ACQUISITION OF PRIVATE LANDS

The Administration's proposal would provide for acquiring 15,000 of 24,500 acres of private lands by exchange donation. Pending proposals would mandate acquisition of all State and private lands in the volcanic area. Estimated acreages and values are as follows:

	Acres	Value
Administration	- 15,000 (24,500)	$ 5 million ($27 million)
House	- 30,100	$37 million

Any land exchange will reduce the National Forest capability to maintain harvest levels. Timber sale receipts foregone could reach $500,000 annually. In addition, there will be a corresponding reduction in payments to the counties.

IMPACTS ON TIMBER RESOURCES

Productive Forest Lands Affected

Administration	15,200 acres capable of growing 7.2 million board feet/yr.
House	47,400 acres capable of growing 22.5 million board feet/yr.

Timber Volumes and Values in National Volcanic Area Not Subject to Salvage Logging or to Future Harvesting

	Million Board Feet	Value
Administration	633	$115 million
House would add:	1,101	$176 million

Planned Timber Salvage Outside National Volcanic Area

Administration	888 million board feet
House	632 million board feet - 256 million board feet reduction (29% reduction by inclusion within the area)

PENDING COPPER CLAIMS

At the present time, there are approximately 100 mining claims on 1,500 to 2,000 acres in the Polar Star/Green River area with approximately 13 that are in the process of being patented. The primary mineral is copper which is estimated to be valued at $500 million.

AREAS NOT JUSTIFIABLY PART OF THE VOLCANIC AREA

The House proposal adds several areas totaling approximately 10,000 acres (Goat Creek, Smith Creek, and Kipuka) that do not contain significant volcanic features. These areas are not appropriate additions to the National Volcanic Area.

June 4, 1982

ESTIMATED COMPARATIVE VALUES
MOUNT ST. HELENS LEGISLATION

TOTAL	ADMINISTRATION	HOUSE
Total Acres	84,700	115,000
Private Land	15,000 (24,500)	30,100
Productive Forest Land	15,200	47,400
Timber Volume	633 MMBF	1,734 MMBF
Timber Value	$115 MM	$291 MM
Land Value	$ 25 MM	$ 34.4 MM
Total Value	$140 MM	$325.4 MM

MMBF = Million Board Feet
$MM = Million Dollars

June 4, 1982

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97TH CONGRESS
2D SESSION

H. R. 6530

To establish the Mount Saint Helens National Volcanic Area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 1982

Mr. BONKER (for himself, Mr. FOLEY, Mr. DICKS, Mr. SWIFT, and Mr. LOWRY of Washington) introduced the following bill; which was referred jointly to the Committees on Agriculture and Interior and Insular Affairs

---

A BILL

To establish the Mount Saint Helens National Volcanic Area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) Mount Saint Helens is a resource of international significance, with inestimable scientific value, and vast potential educational and recreational benefits;

(2) the resource includes, but is not limited to, the geologic features of the lateral blast and avalanche of

the 1980 eruption, recent and prehistoric lava, mud, and pyroclastic flows, tephra deposits, lava caves, batholiths, intrusive plugs, and other igneous features, lakes and river courses, ecological features such as old growth forests, meadow, riparian and alpine communities, ecological responses to geologic processes, and cultural resources from prehistoric, historic, and recent time; and

(3) for the benefit and enjoyment of present and future generations of the American people a comprehensive area surrounding Mount Saint Helens, which contains both unique ecologic and geologic features, communities and landforms, and those which, by contrast, are characteristic of the region, should be preserved.

ESTABLISHMENT OF NATIONAL VOLCANIC AREA

SEC. 2. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately one hundred and fifteen thousand acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Area, June 1, 1982", are hereby designated as the Mount Saint Helens National Volcanic Area (hereafter in this Act referred to as the "volcanic area").

(b)(1) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file a map and a legal description of the volcanic area designated under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map shall be on file and available for public inspection in the appropriate offices of the Forest Supervisor, Gifford Pinchot National Forest and in the offices of the Chief of the United States Forest Service, Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor revisions of the boundary of the volcanic area. No single boundary revision involving contiguous acreage may include more than three hundred and twenty acres. Such a minor boundary revision may be made by the Secretary only after publication of notice of the proposed revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least sixty days before the revision is made. Notice

of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 3. (a) The exterior boundary of the Gifford Pinchot National Forest in the State of Washington, is hereby extended to include all lands and waters within the boundaries of the volcanic area. Lands and interests therein acquired pursuant to section 4 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ACQUISITION

SEC. 4. (a) The Secretary is authorized and directed to acquire all lands and interests in lands within the boundaries of the volcanic area by donation, exchange, or purchase with donated or appropriated funds. Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by donation or exchange.

(b) In recognition of the rapidly deteriorating nature of much of the timber in the volcanic area, any timber acquired pursuant to this section shall be valued for purposes of any acquisition under subsection (a) at an amount not less than the fair market value of such timber on July 1, 1982.

(c)(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to exchange lands and interests in lands in accordance with the provisions of this subsection. With respect to the lands and interests in lands referred to in paragraphs (2) and (3), the Secretary may exercise the authorities of subsection (a) only to the extent necessary to acquire any lands or interests in lands which are not acquired pursuant to the provisions of this subsection.

(2) If Burlington Northern, Incorporated, offers to the United States the following described lands and interests therein, consisting of   acres of land, more or less, the Secretary shall accept such lands and interests therein: [Description of lands to be inserted.] Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Burlington Northern, Incorporated, all right, title, and interest of the United States to the following described national forest system lands and interests therein, consisting of   acres of land, more or less, subject to the reservations noted in the following description (and subject to any additional reservations provided pursuant to paragraph (4)):

[Description of lands to be inserted.]

(3) If the Weyerhaeuser Company offers to the United States the following described lands and interests therein, consisting of   acres of land, more or less, the Secretary shall accept such lands and interests therein: [Description of lands to be inserted.] Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described national forest system lands and interests therein, consisting of   acres of land, more or less, subject to the reservations noted in the following description (and subject to any additional reservations provided pursuant to paragraph (4)):

[Description of lands to be inserted.]

(4) The instruments of conveyance respecting the lands and interests exchanged under this subsection may contain such reservations as may be agreed upon by the Secretary and Burlington Northern, Incorporated, or the Weyerhaeuser Company, as the case may be, including reservations with respect to the conveyance of mineral and geothermal rights.

(5) It is the sense of the Congress that the transactions necessary to effect the conveyances of title to lands referred to in this subsection should be completed within ninety days after the date of the enactment of this Act, except that in the case of mineral and geothermal rights, such transactions shall be completed within one year after such enactment. The

rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.

(6) The Secretary shall certify in writing to his satisfaction, at the time of conveyance, that there has been no reduction in the values of the lands or interests therein, caused by a direct action on the part of the current land owner, below that which formed the basis for the exchanges provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred, caused by direct action of a current land owner, the Secretary shall not carry out the exchange for those lands or interests under this subsection, and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with the provisions of subsection (a).

(7) Any exchange of lands or interests in land pursuant to this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern, Incorporated, or the Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement. No prior contractual obligation of Burlington Northern, Incorporated, or of the Weyerhaeuser Company which may be affected by such exchange shall be assumed by, or otherwise transferred to, the United States in connection with such exchange.

ADMINISTRATION

SEC. 5. (a) The Secretary shall administer the volcanic area as a separate unit of the national forest system, in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act.

(b) The Secretary shall manage the volcanic area to protect the geologic, ecologic, and cultural resources found there in as natural a state as possible, allowing primarily natural geologic forces and ecological succession to continue unimpeded, except that—

(1) the Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the volcanic area or (B) cause substantial damage to significant resources adjacent to the volcanic area, and

(2) in the case of any emergency which may threaten human life or property, the Secretary, acting through authorized personnel of the United States Forest Service, may take any action which such personnel deem necessary for the protection of human life or property.

Any action taken under paragraph (1) shall be the minimum necessary to prevent or reduce the unacceptable endangerment or damage, and any such action (other than emergency action to control fire) shall be based on a written finding of need by the Chief of the United States Forest Service. Such finding shall include an assessment of alternative courses of action.

(c) The Secretary shall permit the full use of the volcanic area for legitimate scientific study and research, except that he may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the volcanic area. Nothing in this Act shall be construed to prohibit reasonable use of motorized equipment (including aircraft landings) to place and service scientific equipment or to provide access for research purposes.

(d)(1) The Secretary shall provide for recreational use of the volcanic area, except that he may impose such restrictions on any visitation within the volcanic area as he deems necessary for the protection of public health and safety, the resources of the volcanic area, and scientific research activities within the volcanic area. The Secretary shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the purposes of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs.

(2) Roads or other developed facilities within the volcanic area shall be located generally in areas which were developed prior to the 1980 eruption and which are still readily apparent on the ground. Roads no longer needed for proper administration of the volcanic area shall be obliterated by man-made actions or by allowing natural forces to occur.

(e) Subject to valid existing rights, all lands and waters within the volcanic area are hereby withdrawn from disposition under the public land laws, from location, entry, and patent under the United States mining laws, from the operation of the United States mineral leasing laws, and from the operation of the Geothermal Steam Act of 1970. Any mining activity carried out pursuant to valid existing rights shall be conducted in such manner as will maintain the water quality in existence in the affected area immediately prior to the commencement of such activity.

(f) Except for timber salvage contracts awarded by the United States Forest Service before the date of the enactment of this Act and except as provided for in subsection (b), no commercial timber harvest or water resource developments shall be allowed within the volcanic area .

(g) The Secretary shall permit hunting and fishing on lands and waters within the volcanic area in accordance with applicable Federal and State law, except that the Secretary may designate zones within the volcanic area where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(h) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 2(b), a detailed and comprehensive management plan for the volcanic area. The plan shall include but not be limited to:

(1) measures for the preservation of the natural geological and ecological integrity of the resources;

(2) indications of types, locations, and general intensities of development and access routes associated with the public understanding, use and enjoyment of the area, including anticipated timing and costs;

(3) identification and implementation plans for visitor carrying capacities of the area; and

(4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

SCIENTIFIC ADVISORY COMMISSION

SEC. 6. (a) There is hereby established the Mount Saint Helens Scientific Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of nine members as follows:

(1) four shall be appointed by the Secretary (one of which shall be a professional employee of the United States Forest Service);

(2) three shall be appointed by the Secretary of the Interior (one of which shall be a professional employee of the United States Geological Survey); and

(3) two shall be appointed by the Governor of the State of Washington from among professional employees of the State of Washington (one of which shall be from the Department of Fisheries and one of which shall be from the Department of Game).

Each member shall be appointed to serve for a term of two years.

(b) All appointments (other than the Federal employees referred to in subsection (a)) shall be made from various geological and ecological disciplines and shall be judged by the respective Secretaries to be qualified scientists in their respective fields of study.

(c) The members of the Commission shall be appointed within ninety days of enactment of this Act. The members of the commission shall, at their first meeting, elect a chairman.

(d) The Secretary shall consult with the Commission (1) regarding the formulation and implementation of policies, rules, and regulations governing or affecting the conduct of scientific studies and research activities concerning the volcanic area, and (2) regarding the administration of the volcanic area with respect to policies, programs, and activities which will retain the natural ecological and geological processes and integrity of the volcanic area. The Commission shall annually report to the Secretary its observations and recommendations and shall submit copies of such annual reports to the committees referred to in section 2(b).

(e) Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) Members of the Commission shall serve without compensation as such, but the Secretary may pay the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section upon presentation of vouchers signed by the chair of the Commission.

(g) The Commission shall terminate ten years from the date of the enactment of this section.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated for fiscal years commencing after September 30, 1983, such sums as may be necessary to carry out the provisions of this Act.

COMPLIANCE WITH BUDGET ACT

SEC. 8. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1983.

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Exhibit 5

AMENDMENTS TO H.R. 5773

Subcommittee on Forests, Family Farms & Energy
Offered by Mr. Weaver

1. On page 3, line 11, after "the", strike "appropriate offices" and insert "office."

2. On page 3, line 13, before "Forest," strike "United States," and after "service," insert "United States."

3. On page 6, line 23, after "act," strike ", except that in" and insert ". In".

Explaination: technical, gramatical changes.

4. On page 7, line 16, after "(7)", delete "any" and insert the following before "exchange": "With the exception of those lands and interests acquired by the United States in accordance with the provisions of subsection (a), any"

Explanation: To clarify that, except under the normal land exchange authorities granted the Secretary (subsection (a)), land exchanges entered into under provisions of this subsection on voluntary and are not coerced under threat of eminent domain.

5. On page 7, line 21, after "agreement.", delete all through line 25 and insert in its place the following:

"This legislation shall not affect any prior contractual obligation of Burlington Northern, Inc. or Weyerhaeuser Company regarding lands owned by them and included in an exchange, nor shall such obligations be transferred by this legislation to the United States."

Explanation: clarification of language that the United States assumes no responsibility for prior contractual agreements.

6. On page 8 line 3 after the word "unit," strike "of the national forest system," and insert: "within the Gifford Pinchott National Forest"

Explanation: To clarify that the volcanic area is within the boundaries of an existing national forest and is to be treated as a separate unit thereof.

7 On page 8, line 19, after "the" strike "United States."

8. On page 9 line 2 after the word "need" place a period and strike the remainder of the sentence.

Explanation: Technical, to permit the Chief of the Forest Service to delegate authority within the organization.

9. On page 11 line 3 after the word "eruption" place a period and strike the remainder of the sentence.

Explanation: To clarify the intent that roads may be rebuilt generally along the alignments existing prior to the eruption but alignments may be modified to account for the changes in the terrain.

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10. On page 10, after line 6, add the following section (3):

"(3) Existing or developed roads within the volcanic area shall not be used for commercial forestry activities, except when determined by the Secretary to be necessary for--

(A) activities carried out in connection with timber salvage contracts awarded by the Forest Service prior to the date of enactment of this Act; or

(B) commercial foresty activities carried out on non-federal lands adjacent to the volcanic area, and, when in the judgement of the Secretary, there is no reasonable alternative route available. Such determination made pursuant to (B) shall be made on a case-by-case basis, after notice and opportunity for public hearing, that such activities (i) will not impair the resources described in Section 1 and (ii) will be consistent with the provisions of this Act."

Explanation: Language added to clarify that roads within the area should not be used for commercial timber purposes in order to avoid conflict with recreational traffic. It is not intended that this clause restrict ongoing timber operations.

11. On page 10, line 18, strike "United States."

12. On page 11, line 11, after "area." insert the following:

"The initial volcanic area management plan may be expressed as an amendment to the October 1981 Mount St. Helens Land Management Plan. Subsequent volcanic area plans shall be integrated with an periodically revised as a component of the Gifford Pinchot Land management planning process.

13. On page 12, line 7, after "the" delete "United States."

Exhibit 6

AMENDMENT OFFERED BY MR. MORRISON

TO H.R. 6530

On page 10, line 2, strike "shall be located" and insert in lieu thereof "should be located".

Exhibit 7

AMENDMENT OFFERED BY MR. MORRISON

TO H.R. 6530

On page 8, line 3, strike "as a separate unit of the national forest system," and insert in lieu thereof "in accordance with the Mt. St. Helens management plan and".

Exhibit 8

AMENDMENT OFFERED BY MR. MORRISON

TO H.R. 6530

On page 12, line 2, strike all of Section 6 and insert in lieu thereof:

SCIENTIFIC ADVISORY BOARD

SEC. 6. (a) There is hereby established the Mount Saint Helens Scientific Advisory Board (hereinafter referred to as the "Board). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to the measures needed to protect and manage the natural and scientific values of the National Volcanic Area. The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the volcanic area designed to gain scientific information for future interpretation and enjoyment by visitors to the National Volcanic Area. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines. Members shall be appointed by the Secretary for terms of three years, as follows:

(1) Three qualified members selected by the Secretary (one of which shall be a professional employee of the U.S. Forest Service);

(2) Two members appointed by the Secretary of the Interior (one of which shall be a professional employee of

the United States Geological Survey);

(3) Two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington (one of which shall be from the Department of Fisheries and one of which shall be from the Department of Game); and

(4) Two members selected by the Chairman of the National Science Foundation.

(c) The members of the Board shall be appointed within ninety days of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(d) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to potential and ongoing research programs within the Area.

(e) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chair, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(f) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(g) The Board shall terminate ten years from the date of its first meeting.

MORRIS007

Exhibit 9

Amendment to H.R. 5773
Offered by Mr. Morrison

Page 14, after line 1, insert the following new section:

EXPENDITURE OF CERTAIN REVENUES FROM GIFFORD PINCHOT NATIONAL FOREST BY SKAMANIA COUNTY, WASHINGTON

SEC. 5. (a) Notwithstanding the provisions of the last paragraph under the heading ''FOREST SERVICE.'' of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expended for the benefit of Skamania County--

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall not apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) at the end of any fiscal year ending before the date of the enactment of this Act.

Number the following sections accordingly.

~~Page 4, line 4, strike out ''SEC. 5.'' and insert in~~

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date June 9, 1982

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing

Subject: Dairy price support proposals

Bill Nos. none

The Livestock, Dairy, and Poultry (Sub) Committee

met in open Session at 8:45 a.m. o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Harkin
Mr. Volkmer
Mr. Jones of Tenn.
Mr. Coelho
Mr. Stenholm
Mr. Hatcher
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hagedorn
Mr. Jeffords
Mr. Hansen
Mr. Skeen
Mr. Gunderson
Mr.
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Mr.
Mr.
Mr.

Also present:
de la Garza, ex officio)

Staff present:

George Palmer, Subcommittee Staff Director
Steve McCoy, Staff Economist
Roger Allbee, Minority Consultant
Floyd Gaibler, Minority Consultant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable James L. Oberstar, Member of Congress from Minnesota
2. Honorable Toby Roth, Member of Congress from Wisconsin
3. Honorable Steve Gunderson, Member of Congress from Wisconsin
   Acc. by: Dr. Robert Cropp, University of Wisconsin at Plattesville
4. Honorable Richard E. Lyng, Deputy Secretary of Agriculture, U.S. Department of Agriculture
5. Panel:
   Honorable George Dunsmore, Commissioner, Vermont Department of Agriculture, Montpelier, Vermont
   Honorable Roger Barber, Commissioner, New York State Department of Agriculture and Markets, Albany, New York
6. Ms. Ellen Haas, Community Nutrition Institute, Washington, D.C.
7. Mr. Harry Snyder, Consumers Union, San Francisco, California
8. National Milk Producers Federation Panel on Dairy Stabilization Program:
   Mr. Norman H. Barker of Pratt, Kansas, President, National Milk Producers Federation, Washington, D.C.
   Mr. George Abright, Hannibal, Missouri
   Mr. Myron Alberts, Pine Island, Minnesota
   Mr. Calvin Buchanan, Decatur, Texas
   Mr. Elmer F. Paper, Stockton, Iowa

Statements Filed:

-3-

June 9, 1982 - morning
Livestock, Dairy, and Poultry
Subcommittee
Public Hearing
Dairy price support proposals

Chairman Harkin called the hearing to order at 8:15 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

Brief recesses were called at 10:10 a.m. and 11:11 a.m. to permit Members to respond to calls from the Floor of the House.

At 12:45 p.m., noting that calls from the Floor of the House would require Members' presence there for a considerable time, the Chair adjourned the hearing, to reconvene at 2:00 p.m. the same day.

Christine D. Abram
Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date June 9, 1982

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing

Subject: Dairy price support proposals

Bill Nos. none

The Livestock, Dairy, and Poultry (Sub) Committee met in open Session at 2:15 p.m. o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Harkin
Mr. Volkmer
Mr. Jones of Tenn.
Mr. Coelho
Mr. Stenholm
Mr. Hatcher
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hagedorn
Mr. Jeffords
Mr. Hansen
Mr. Skeen
Mr. Gunderson
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Mr.

Also present
de la Garza (ex officio)

Staff present:

George Palmer, Subcommittee Staff Director
Steve McCoy, Staff Economist
Roger Allbee, Minority Consultant
Floyd Gaibler, Minority Consultant
Christine Abram, Staff Assistant
Gregg McCornack, Staff Assistant

Witnesses:

1. National Milk Producers Federation Panel on National Dairy Products Promotion Program
   Mr. Elwood Kirkpatrick, Southfield, Michigan
   Acc. by: Mr. Patrick B. Healy, Secretary, National Milk Producers Federation
   Mr. Eddie Fuqua, Martin, Tennessee
   Mr. Wayne Palla, Clovis, New Mexico
   Dr. Stan Thompson, Department of Agricultural Economics, Michigan State University, East Lansing, Michigan
2. Dairymen, Inc., Panel:
   Mr. Tim Mogan, Finchville, Kentucky
   Mr. Bascom Williamson, Murphreesboro, Tennessee
   Mr. William A. Butler, Bladenboro, North Carolina
   Mr. Marshall Babb, Griffin, Georgia
3. Mr. E. Linwood Tipton, Milk Industries Foundation and International Association of Ice Cream Manufacturers, Washington, D.C.
4. Mr. Harry G. Shupe, National Independent Dairy-Foods Association, Washington, D.C.
5. Mr. Jay Goold, League of California Milk Producers, Sacramento, California
6. Mr. Irving Elkin, Associated Milk Producers, Inc., San Antonio, Texas
7. Mr. Paul Stone, dairy farmer, Orwell, Vermont
8. Mr. Walter F. Pyle, dairy farmer, Shoreham, Vermont
9. Mr. Douglas Caruso, Farmers Union Milk ;Marketing Cooperative, Madison, Wisconsin
10. Mr. Michael V. Durando, American Farm Bureau Federation, Washington, D.C.
11. Mr. Robert Mullins, National Farmers Union, Washington, D.C.

Statements Filed:

June 9, 1982 - afternoon
Livestock, Dairy, and Poultry
Subcommittee
Public Hearing
Dairy price support proposals

Chairman Harkin called the hearing to order at 2:15 p.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

Mr. William Butler of Bladenboro, North Carolina, was introduced by Congressman Whitley. Mr. Jones of Tennessee introduced Mr. Bascom Williamson of Murphreesboro, Tennessee.

At 5:47 p.m., there being no further witnesses to be heard, the Chair adjourned the hearing, subject to the call of the Chair.

Christine D. Abram
Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, June 9, 1982

~~(Sub)~~ Committee: Full

Meeting: Public Hearing

Subject: Farm Crisis Act of 1982

Bill Nos. H.R. 6274

The Full ~~(Sub)~~ Committee

met in Open Session at 10:00 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer

Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Hagedorn
Mr. Coleman
Mr. Marlenee
Mr. Hansen
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
~~Mr.~~ ALSO PRESENT:
Mr. Alexander
Mr. Synar
Mr. Hightower
Mr Anthony
Mr. Williams, Mont.
Mr. Oberstar
Mr. McCurdy

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Bernie Brenner, Press Secretary
Steve McCoy, Staff Economist
Gene Moos, Subcommittee Staff Director
Jerry Jorgensen, Minority Consultant
Laure Hubert, Legal Intern
Peggy Pecore, Clerk

Witnesses:

1. Honorable Mike Synar, Member of Congress from Oklahoma
2. Honorable Jack Hightower, Member of Congress from Texas
3. Honorable Beryl Anthony, Jr., Member of Congress from Arkansas
4. Honorable Pat Williams, Member of Congress from Montana
5. Honorable James L. Oberstar, Member of Congress from Minnesota
6. Honorable Dave McCurdy, Member of Congress from Oklahoma
7. Honorable John R. Block, Secretary of Agriculture, accompanied by: Dr. William Lesher, Assistant Secretary for Economics, Department of Agriculture

Statements Filed:

1. Honorable Bill Alexander, Member of Congress from Arkansas
2. Honorable Virginia Smith, Member of Congress from Nebraska

Wednesday, June 9, 1982
Full Committee
Public Hearing
Farm Crisis Act of 1982
H.R. 6274

Chairman de la Garza called the meeting to continue hearing witnesses on the Farm Crisis Act. He recognized the first witness listed on page two for his prepared statement, following which the Committee recessed at 10:07 until 10:35 to enable Members to respond to a vote on the House Floor.

The remaining witnesses presented their statements in the order listed and responded to questions from Members of the Committee as appearing in the record.

The Secretary of Agriculture had agreed to stay until all Members with questions had their turn; however, Mr. Emerson, whose turn was last, elected to submit his questions in writing so that Members could respond to another Floor vote.

Chairman de la Garza adjourned the meeting at 1:50 p.m., and announced the Committee would reconvene at 2:10 p.m. this date to hear the remaining witnesses.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, June 9, 1932

~~(Sub)~~ Committee: Full

Meeting: Public Hearing

Subject: Farm Crisis Act of 1982

Bill Nos. H.R. 6274

The Full ~~(Sub)~~ Committee

met in Open Session at 2:30 pm o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Daschle
Mr. Stenholm
Mr. Dorgan
Mr. Hopkins
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
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Mr.

Staff present:

Steve McCoy, Staff Economist
Steve Adams, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

1. Panel:

   Mr. Charles L. Frazier, National Farmers Organization, Washington, D.C.

   Mr. Bob Mullins, National Farmers Union, Washington, D.C.

   Mr. Robert Fredericks, The National Grange, Washington, D.C., for Mr. Edward Anderson, Master of the Grange

Statements Filed:

NONE

Wednesday, June 9, 1982
Full Committee
Public Hearing
Farm Crisis Act of 1982
H.R. 6274

Chairman de la Garza called the meeting to order and recognized members of the panel listed on page two to summarize their statements, following which they responded to questions as appearing in the record.

The Chairman informed the Committee a date would be set during the following week to mark up the legislation.

The Committee adjourned at 2:55 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date June 10, 1982

(Sub) Committee: Forests, Family Farms, and Energy

Meeting: Public Hearing

Subject: Organic Farming Act of 1982

Bill Nos. H.R. 5618

The Forests, Family Farms, and Energy (Sub) Committee

met in Open Session at 10:00 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. Weaver
Mr. Brown, Jr.
Mr. Bedell
Mr. Daschle
Mr. Dorgan
Mr. Albosta
Mr. Marlenee
Mr. Hansen
Mr. Skeen
Mr. Morrison
Mr. Chappie
Mr.

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Staff present:

Cris Aldrete, Special Counsel
Greg Skillman, Subcommittee Staff Director
Peggy Pecore, Clerk
Francie Monaghan, Staff Assistant
Gerald Jorgensen, Minority Consultant
Dick Fritz, Minority Consultant
Steve Adams, Staff Assistant

Witnesses:

1. Dr. Terry B. Kinney, Administrator, Agricultural Research Service, U.S. Department of Agriculture, on behalf of Dr. Anson Bertrand, Director, Science and Education Administration, U.S.D.A.

2. Dr. Garth Youngberg, Policy and Coordination Staff, Science and Education Administration, U.S. Department of Agriculture.

3. Mr. Neil Sampson, National Association of Conservation Districts, Room 730, 1025 Vermont Avenue, N.W., Washington, D.C. 20005

4. Panel:

   Dr. Daniel Colacicco, Economic Research Service, U.S. Department of Agriculture.

   Dr. James F. Parr, Chief, Biological Waste Management and Organic Resources, Science and Education Administration, U.S. Department of Agriculture.

   Dr. Robert Papendick, Land Management and Water Conservation Research Unit, U.S. Department of Agriculture, Pullman, Washington.

5. Dr. Richard Harwood, Rodale Press, Kutztown, Pennsylvania.

6. Panel:

   Mr. Earl Lawrence, Virginia Association of Biological Farmers, Rocky Mount, Virginia.

   Mr. Jarlath Hamrock, Willets Produce, Willets, New York, representing the American Agriculture Movement.

7. Dr. Warren Sahs, Assistant Director, Agricultural Experiment Station, University of Nebraska, Lincoln, Nebraska.

8. Mr. Joseph Dunsmoor, Organic Farms Inc., 3820 West Street, Landover, Maryland 20785.

9. Ms. Rosemarie West, President, National Nutritional Foods Association, Arington, Virginia.

   accompanied by:
   Mr. Bernie Fensterwald, Legislative Counsel, National Nutritional Foods Association, Arlington, Virginia.

Statements Filed:

1. Ms. Debbie Wechsler, Coordinator, Carolina Farm Stewardship Association

Thursday, June 10, 1982
Subcommittee on Forests, Family Farms,
and Energy
Public Hearing
Organic Farming Act of 1982
H.R. 5618

Mr. Weaver, Chairman of the Subcommittee on Forests, Family Farms, and Energy, called the meeting to order at 10:00 a.m. In his opening statement, Mr. Weaver explained the purpose of H.R. 5618. The Chairman heard testimony from the witnesses listed on page 2, and he and the other Subcommittee Members present questioned many of the witnesses in detail.

The Subcommittee recessed from 10:05 a.m. until 10:25 a.m., and at 11:05 a.m. until 11:20 a.m., to enable the Members to respond to votes on the House Floor.

At the close of the meeting, the Chairman announced that the record would remain open for ten days for the purpose of accepting any additional testimony from interested parties. The Subcommittee was then adjourned at 2:30 p.m. to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Monday, June 14, 1982

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Meeting: Public Field Hearing

Subject: Review of farm commodity stabilization program

Bill Nos.

The Wheat, Soybeans, and Feed Grains (Sub) Committee met in open Session at ______ o'clock, in ~~Room~~/ Spokane Falls Community College

The following Members were present:

Mr. Foley
Mr. Daschle
Mr. Roberts, Kans.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.

Staff present:

Eugene Moos, Subcommittee Staff Director

Witnesses:

1. Alex McLean, Pres., Wash. Assoc. of Wheat Growers, Box 246,
   Mansfield, WA 98830
2. Herb O. Strueli, Pres., Wash. Farm Bureau, 11 West 21st,
   Olympia, WA 98501
3. Don W. McClure, Pres., Wash. State Cattlemen, Box 169, Nespelem, WA 99155
4. Dan Duvall, Dir. of Field Services, Ore-Wash State Farmers Union,
   Route 1, Box 1840, Hermiston, Oregon 97838
5. Irwin W. (Bill) Graedel, Farmer, Pres. Lincoln Elec. Coop., Box 157,
   Route 1, Odessa, WA
6. Ralph Lubeck, Northwest Area Director of Natl. Assoc. of Farmer
   Elected Committeemen, Stamford, Nebraska 68977
7. T. Frank Rawlinson, Past Chm. Millers Natl. Federation, Pres. Centennial
   Mills Div. of ADM Milling Co., P.O. Box 3773, Portland, Oregon 97208
8. James W. Miller, First Vice Pres., Wash. Assoc. of Wheat Growers,
   Box 278, Garfield, WA 99130
9. Dick Deffenbaugh, Chm., Wash. Wheat Commission, 409 Great Western
   Bldg., Spokane, WA 99201
10. Douglas Bayne, Pres., Walla Walla County Wheat Growers, 850 Clay St.,
    Walla Walla, WA 99362
11. Jerry Sodorff, Farmer, Rt. 1, Box 133, Pullman, WA 99163
12. Henry A. Fisher, Farmer, Box 77, Oakesdale, WA 99158
13. Tom L. Bailie, Farmer, P. O. Box 250, Mesa, WA 99343
14. Kenneth H. Fengman, Farmer, Star Route, Box 84, Mesa, WA 99343
15. Gary W. Schulz, Former Young Farmer, West 6401 B. Riverview Drive,
    Post Falls, Idaho 83854
16. Rusty Bullock, Farmer, 1611 W. Yakim St., Pasco, WA 99301
17. Ruth F. Conarro, Pres., Wash. WIFE, Star Route, Box 129, Mesa, WA 99343
18. Alice Parker, Farmer, Star Route 1, Royal City, WA 99357
19. Robert A. Hutchens, Farmer, Route 3, Box 566, Dayton, WA 99328
20. Eric Thorn, Farmer, Box 207, Dayton, WA 99328

Monday, June 14, 1982
Wheat, Soybeans, and Feed Grains Subcommittee
Public Field Hearing, Spokane, Washington
Review of farm commodity stabilization program

Mr. Foley, Chairman of the Subcommittee, called the hearing to order at 8:00 a.m. After a short welcoming address by Congressman Foley, testimony was taken from 20 witnesses as listed on page two of these minutes. Included in the witness group were farmers, representatives of the general farm organizations, the commodity groups, and representatives of Washington State Rural Electrification Associations.

All witnesses discussed the difficult economic circumstances presently facing most grain farmers in the Pacific Northwest with special emphasis on the effects of high interest rates on costs, and concern over the export policy of the United States.

The hearing was adjourned at 12:30 p.m. after all witnesses had been heard and questioned.

Gene Moos
Gene Moos

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U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, June 15, 1982

(Sub) Committee: Tobacco and Peanuts

Meeting: Business

Subject: No Net Cost Tobacco Program Act of 1982

Bill Nos. Subcommittee Print

The Tobacco and Peanuts (Sub) Committee

met in Open Session at 10:15 am o'clock, in Room 1301 LHOB.

The following Members were present:

Mr. Rose
Mr. Jones, N.C.
Mr. Whitley
Mr. English
Mr. Stenholm
Mr. Hopkins
Mr. Napier
Mr. Roberts, S.D.
Mr.
Mr.
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Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Bernie Brenner, Press Secretary
Joan Teague, Staff Analyst
Carol Dubard, Minority Consultant
Jerry Welcome, Staff Assistant
Laure Hubert, Legal Intern
Peggy Pecore, CLerk

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Witnesses:

In audience to respond to questions from Members of the Subcommittee:

Mr. Eric Tabor, Office of Legislative Counsel, U.S. House of Representatives

Mr. J. W. Davis, Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, Washington, D.C.

Mr. J. W. York, Assistant to Mr. Davis

Mr. Don Eberly, Legislative Assistant to Honorable Robert Walker, Member of Congress from Pennsylvania

Statements Filed:

NONE

[illegible]

Tuesday, June 15, 1982
Subcommittee on Tobacco and
 Peanuts
Business Meeting
Subcommittee Print of "No Net
 Cost Tobacco Program Act of 1982"

Action taken:

--Without objection agreed to use the subcommittee Print as a markup vehicle

--Without objection agreed to Jones, N.C. amendment to change the word "nearby" to "adjoining" in the Lease and Sale of Flue-Cured Tobacco Acreage Allotments and Marketing quotas section of the Print

--Without objection agreed to Rose unanimous consent request to withdraw his amendment on behalf of Congressman Walker relative to exemption of certain nonquota tobacco from quota restrictions

--By a rollcall vote of 7 yeas-1 present, the Subcommittee Print, as amended, was ordered reported to the full Committee in the presence of a quorum

Chairman Rose called the meeting to order and summarized the subcommittee's activities toward writing the language of the subcommittee Print, the subject of which had been mandated by the Agriculture and Food Act of 1981. He informed the subcommittee that legislation needed to be in place by July 15, 1982, at which time tobacco markets would be opening. Other Members were recognized for remarks.

Mr. Rose asked unanimous consent that the subcommittee Print (attached) be used as a markup vehicle and open for amendment at any point. He announced it was his intention to introduce a bill this date to be brought up before the full Committee on June 16, 1982. Mr. Hopkins reserved the right to object. He informed the subcommittee he might introduce a bill on behalf of burley tobacco producers and withdrew his reservation.

There being no objection to using the Print, Counsel Lowerre was recognized to explain Title I. General discussion followed. Title II was explained by Chairman Rose and Mr. Tabor of the Legislative Counsel's office. Mr. Jones, N.C., was recognized to offer an amendment as follows:

> On page 13, on lines 6, 7, and 12, change the word "nearby" to "adjoining"

After a brief discussion, the amendment was agreed to without objection.

Tuesday, June 15, 1982
Subcommittee on Tobacco and Peanuts
Business Meeting
Subcommittee Print of "No Net Cost
Tobacco Program Act of 1982"

After the remainder of Title II was discussed, Chairman Rose offered an amendment (attached) on behalf of Congressman Walker of Pennsylvania relative to exemption of certain nonquota tobacco from quota restrictions.

After the amendment was generally discussed, Mr. Rose asked unanimous consent to withdraw the amendment in order to rework it to be offered before the full Committee. There was no objection to his request.

Mr. Rose moved that the subcommittee report the Print, as amended, to the full Committee with the recommendation that it do pass. Mr. Whitley seconded the motion. The Chairman asked for a voice vote and the ayes prevailed. Mr. Hopkins announced he would abstain. Mr. Jones, N.C., asked for a rollcall vote. There being no objection, the clerk was instructed to call the roll and the vote follows:

YEAS

1. Mr. Jones, N.C.
2. Mr. Whitley
3. Mr. Hatcher (proxy to Mr. Rose)
4. Mr. English
5. Mr. Stenholm
6. Mr. Rose
7. Mr. Napier

PRESENT

1. Mr. Hopkins

Thus, by a vote of 7 yeas-1 present, the Print, as amended, was ordered reported to the full Committee in the presence of a quorum.

The subcommittee adjourned at 11:35 a.m., to reconvene subject to the call of the chair.

Peggy Pecore

Peggy Pecore

EJT009

[SUBCOMMITTEE PRINT]
June 15, 1982

97TH CONGRESS
2D SESSION

H. R. ______

IN THE HOUSE OF REPRESENTATIVES

Mr. ROSE introduced the following bill; which was referred to the Committee on ______________

A BILL

To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the ''No Net Cost Tobacco Program Act of 1982''.

FINDINGS

SEC. 2. Congress finds that--

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production and adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I--MODIFICATION OF TOBACCO PRICE SUPPORT PROGRAM

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 101. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 is amended by inserting, following section 106, a new section 106A as follows:

''PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

''SEC. 106A. (a) As used in the section--

''(1) the term 'association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

''(2) the term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

''(3) the term 'Fund' means the capital account to be established within each association, which account shall be known as the 'No Net Cost Tobacco Fund';

''(4) the term 'to market' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

''(5) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

''(6) the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

''(b) The Secretary shall carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

''(c) Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

''(d) The Secretary shall--

''(1) require (A) that each producer of each kind of quota tobacco shall, as a condition of eligibility for price support, agree, with respect to all quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary, and (B) that, upon making such contribution

(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution, and (ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate having a face amount equal to the amount of the contribution and representing an interest in the association's Fund. The Secretary shall approve the amount of the contributions determined by the association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

''(2) require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to contribute, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

''(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under paragraph (5);

''(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, except the interest or other earnings on such investment shall become a part of the Fund;

''(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to an association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

''(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess will be released to the association by the Corporation and may be devoted to other purposes by the association.

''(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

''(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

''(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.''.

ADJUSTMENT OF PRICE SUPPORT LEVEL OF TOBACCO

SEC. 102. Effective for the 1982 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 is amended by adding at the end thereof new subsections (d) and (e) as follows:

''(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grades of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: Provided, That the weighted average of the support rates for all eligible grade of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

''(e) If the Secretary determines that, notwithstanding the adjustments in the support price made under subsection (d), the supply of any eligible grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will have a support rate which will likely be excessive under current market conditions, the Secretary, after prior approval of the association through which price support for Flue-cured tobacco is made available to producers, may designate such grade of tobacco as 'excessively priced'. If a grade of tobacco is so designated, the Secretary shall provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade shall be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco may also market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction shall, notwithstanding any other provision of law, not be considered marketed for purposes of marketing or poundage quotas and penalties under subtitle B, part I, of the Agricultural Adjustment Act of 1938: Provided, That a quantity of tobacco equal to the quantity marketed at such special auction shall be deducted from any undermarketings for purposes of such subtitle. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

TITLE II--MODIFICATION OF FLUE-CURED TOBACCO MARKETING QUOTA SYSTEM

LEASE AND SALE OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 201. (a) Section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)) is amended--

(1) by inserting ''(1)'' after ''(a)'';

(2) by inserting ''but in accordance with this

section,'' after ''law,'';

(3) by inserting ''shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and'' after ''program,'';

(4) by inserting ''Flue-cured,'' after ''Burley,'';

(5) by inserting a commma before ''to lease'';

(6) by adding at the end thereof the following new paragraph:

''(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster--

''(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

''(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

''(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in a nearby county within the same State for use in such nearby county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall be not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such nearby county to be in compliance with the provisions of this section.

''(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except--

''(i) between the lessor and lessee; or

''(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

''(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease.''; and

(7) by amending the section heading for such section to read as follows:

''LEASE OR SALE OF ACREAGE ALLOTMENTS''.

(b) Section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended--

(1) in the first sentence--

(A) by inserting ''or sale and transfer'' after ''lease and transfer''; and

(B) by striking out ''such lease'' and inserting in lieu thereof ''the lease or sale agreement, as the case may be,'';

(2) by striking out the second sentence and inserting in lieu thereof the following: ''In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing on the record, the Secretary, through such county committee, determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act

of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing on the record, the Secretary, through a local review committee which the Secretary shall appoint under section 363 of this Act (without regard to whether such lessor requested appointment of such local review committee), determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Court review of any determination so made by a county committee or by a local review committee shall be available in the same manner as is provided for court review of determinations of local review committees under sections 365, 366, 367, and 368 of this Act.''; and

(3) in the third sentence (as in effect before the amendment made by paragraph (2))--

(A) by inserting ''by lease or sale'' after ''transferred''; and

(B) by striking out ''lease and''.

(c) Section 316(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(e)) is amended--

(1) by inserting ''(1)'' after ''(e)'';

(2) by inserting ''or sale'' after ''lease'';

(3) by inserting ''or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm'' before the colon; and

(4) by adding at the end thereof the following new paragraph:

''(2) For purposes of this section, the term 'tillable cropland' means cleared land that can be planted to crops without unusual cultivation or other preparation.''.

(d) Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking out subsections (g), (h), and (i) and inserting in lieu thereof the following new subsections:

''(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than 1 of the 3 years preceding the year involved.

''(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if--

''(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

''(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

''(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.

''(h)(1) Any person who--

''(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

''(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the 18-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

''(2) Any person who--

''(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

''(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

''(3)(A) If, after notice and an opportunity for a hearing on the record, the Secretary through the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

''(B) Court review of any such determination shall be available in the same manner as is provided in sections 365, 366, 367, and 368 of this Act for court review of determinations of local review committees.''.

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 202. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this Act--

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et

seq.); and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of such Act (7 U.S.C. 1314b(g)) not later than December 1, 1983, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which the total acreage alloted for the production of Flue-cured tobacco under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) exceeds 50 percent of such farm's tillable cropland, as defined in section 316(e)(2) of such Act (7 U.S.C. 1314b(e)(2)), shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c).

(c)(1) If, after notice and an opportunity for a hearing on the record, the Secretary, through the appropriate county committee, determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of the Agricultural Adjustment Act of 1938 (7

U.S.C. 1314b(h)(3)(A)).

(2) Court review of any such determination shall be available in the same manner as is provided in sections 365, 366, 367, and 368 of such Act (7 U.S.C. 1365, 1366, 1367, and 1368) for court review of determinations of local review committees.

PERIODIC ADJUSTMENT OF NATIONAL YIELD FACTOR FOR FLUE-CURED ACREAGE-POUNDAGE QUOTAS

SEC. 203. Section 317(a)(7) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(7)) is amended by adding at the end thereof the following: ''Notwithstanding the preceding sentence, in 1983, and at 5 year intervals thereafter, the national yield factor for Flue-cured tobacco shall be adjusted by the Secretary to the past 5 years' moving average yield with adjustments in individual farms based on yield history.''.

DIRECT SALES OF FLUE-CURED TOBACCO BY COOPERATIVE ASSOCIATIONS

SEC. 204. Any cooperative association owned and controlled by producers of Flue-cured tobacco and utilized by such Corporation in its price support operations may engage in--

(1) direct domestic sales of any stocks of Flue-cured tobacco held by such cooperative association; and

(2) direct export sales of any such stocks held by

such cooperative association for not less than 2 years.

CONFORMING AMENDMENTS

SEC. 205. (a) The fifth sentence of section 317(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(f)) is amended by inserting ''and sold'' after ''leased''.

(b) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is amended--

(1) by striking out ''lease and'' each place it appears;

(2) by striking out ''lessee'' each place it appears and inserting in lieu thereof ''transferee'';

(3) by striking out ''lessor'' each place it appears and inserting in lieu thereof ''transferor''; and

(4) by striking out ''leased'' and inserting in lieu thereof ''transferred''.

EFFECTIVE DATE

SEC. 206. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by this title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act.

ROSE018

Amendment to Subcommittee Print

Offered by Mr. Rose

Page 22, after line 1, insert the following new section:

Exemption of Certain Nonquota Tobacco from Quota Restrictions

Sec. 205. Section 320(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314f(b)) is amended--

(1) in paragraph (3) by striking out ``and'' at the end thereof;

(2) in paragraph (4) by striking out the period at the end thereof and inserting in lieu thereof ``; and''; and

(3) by adding at the end thereof the following new paragraph:

``(5) tobacco when it is nonquota tobacco and produced in a quota area in which not more than 20 acres of quota tobacco are planted for harvest in the marketing year to which such quotas apply.''.

Page 22, line 3, strike out ``Sec. 205.'' and insert in lieu thereof ``Sec. 206.''.

Page 22, line 17, strike out ``Sec. 206.'' and insert in lieu thereof ``Sec. 207.''.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, June 16, 1982

(~~Sub~~) Committee: Full

Meeting: Business

Subject: No Net Cost Tobacco Program Act Amendments of 1982; Farm Crisis Act of 1982

Bill Nos. H.R. 6590, H.R. 6274

The Full (~~Sub~~) Committee

met in Open Session at 10:02 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones, N.C.
Mr. Jones, Tenn.
Mr. Bowen
Mr. Rose
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Fithian
Mr. Panetta

Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Findley
Mr. Hagedorn
Mr. Coleman
Mr. Hopkins
Mr. Thomas
Mr. Hansen
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.

Staff present:

Bob Bob Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Christine Abram, Staff Assistant
Joan Teague, Staff Analyst
Carol Dubard, Minority Consultant
Jerry Welcome, Staff Assistant
Peggy Pecore, Clerk

Witnesses:

In audience to respond to questions from Members of the Committee:

Mr. J. W. Davis, Director, Tobacco and Peanut Division, ASCS, Department of Agriculture

Statements Filed:

NONE

Wednesday, June 16, 1982
Full Committee
Business Meeting
No Net Cost Tobacco Amendments Act of 1982; Farm Crisis Act of 1982
H.R. 6590; H.R. 6274

ACTION TAKEN:

--Findley amendment relative to administrative costs not agreed to by a division vote of 3 yeas-26 nays.

--Whitley amendment relative to quantity of tobacco marketed at the special auction agreed by a voice vote.

--Whitley amendment relative to effective date for owners of leased acreage to comply with producer contributions requirements agreed to by a voice vote.

--Rose amendment relative to exemption of certain non-quota tobacco from quota restrictions agreed to by a voice vote.

--Jones, N.C. amendment relative to Maryland (type 32) tobacco not agreed to by a voice vote.

--Rose technical amendments agreed to by a voice vote.

--Rose amendment to strike section 204, relative to direct sales of Flue-cured tobacco by cooperative associations agreed to.

--Rose motion to report H.R. 6590, as amended, agreed to by a voice vote in the presence of a quorum.

--Without objection, agreed to use the Daschle substitute amendment to H.R. 6274 as the markup vehicle.

Chairman de la Garza called the meeting to order and recessed for 15 minutes to allow Members to respond to a vote on the House Floor.

When the Committee reconvened Mr. Rose, Chairman of the Subcommittee on Tobacco and Peanuts was recognized to explain the provisions of H.R. 6590 as reported by the subcommittee. A copy of the bill is attached, together with a brief explanation.

Mr. Findley was recognized to offer an amendment (attached) relative to reimbursing the Federal Government for costs of administering the program. Discussion followed. The Chairman put the question on the amendment and it was not agreed to by a division vote of 3 yeas-26 nays.

Mr. Whitley offered an amendment (attached) relative to the quantity of tobacco marketed at the special auction, and it was agreed to by a voice vote.

Wednesday, June 16, 1982
Full Committee
Business Meeting
No Net Cost Tobacco Amendments Act
 of 1982; Farm Crisis Act of 1982
H.R. 6590, H.R. 6274

Mr. Whitley offered a second amendment (attached) relative to the effective date for owners of leased acreage to comply with producer contribution requirements. After he explained the amendment it was agreed to by a voice vote.

Mr. Rose was recognized to offer an amendment (attached) relative to exemption of certain non-quota tobacco from quota restrictions. After discussion, Mr. Rose moved the previous question and the amendment was agreed to by a voice vote.

Mr. Jones, N.C., offered an amendment (attached) relative to Maryland Type 32 tobacco, and gave a brief explanation. The Chairman put the question on the amendment and it was not agreed to by a voice vote.

Mr. Rose offered technical and clarifying amendments (attached) and they were agreed to by a voice vote.

A unanimous consent request by Mr. Rose to strike section 204, relative to direct sales of Flue-cured tobacco by cooperative associations, was agreed to without objection.

Mr. Rose moved to report H.R. 6590, as amended, to the House, and his motion was agreed to by a voice vote in the presence of a quorum (24 Members were present).

Mr. Rose informed the Committee he hoped the bill could be considered on the House Floor under Suspension of the Rules.

The Chairman next called up H.R. 6274, the Farm Crisis Act of 1982, and recognized the author, Mr. Daschle, for remarks. Mr. Daschle briefly explained the differences between his substitute and the bill, after which he asked unanimous consent that the Committee use the substitute amendment as the markup vehicle. There was no objection, and a copy of the amendment is attached.

There being a vote on the House Floor, the Committee adjourned at 11:40 a.m. to reconvene at 1:30 p.m. this date to continue consideration of the Farm Crisis Act.

Peggy Pecore
Peggy Pecore

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97TH CONGRESS
2D SESSION
H. R. 6590

To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1982

Mr. ROSE (for himself, Mr. WHITLEY, Mr. JONES of North Carolina, Mr. HATCHER, Mr. NAPIER, Mr. HEFNER, Mr. JOHNSTON, Mr. DAN DANIEL, and Mr. FOUNTAIN) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "No Net Cost Tobacco Program Act of 1982".

FINDINGS

SEC. 2. Congress finds that—

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production and adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price-support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price-support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I—MODIFICATION OF TOBACCO PRICE SUPPORT PROGRAM

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 101. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 is amended by inserting, following section 106, a new section 106A as follows:

"PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

"SEC. 106A. (a) As used in this section—

"(1) the term 'association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

"(2) the term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

"(3) the term 'Fund' means the capital account to be established within each association, which account shall be known as the No Net Cost Tobacco Fund;

"(4) the term 'to market' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price-support advance;

"(5) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price-support loan exceeds the principal amount of the price-support loan made by the Corporation to the association on such crop, plus interest and charges; and

"(6) the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

"(b) The Secretary may carry out the tobacco price-support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

"(c) Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

"(d) The Secretary shall—

"(1) require (A) that each producer of each kind of quota tobacco shall, as a condition of eligibility for price support, agree, with respect to all quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary, and (B) that, upon making such contribution (i) in the case of quota tobacco marketed other than by consignment to an association for a price-support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution, and (ii) in the case of quota tobacco consigned by the producer to an association for a price-support advance, the producer shall receive from the association a qualified per unit retain certificate having a face amount equal to the amount of the contribution and representing an interest in the association's Fund. The Secretary shall approve the amount of the contributions determined by the association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

"(2) require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to contribute, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

"(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under paragraph (5);

"(4) permit an association to invest the moneys in the Fund in such manner as the Secretary may approve, except the interest or other earnings on such investment shall become a part of the Fund;

"(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price-support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price-support loan made by the Corporation to an association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

"(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess will be released to the association by the Corporation and may be devoted to other purposes by the association.

"(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

"(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

"(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.".

ADJUSTMENT OF PRICE-SUPPORT LEVEL OF TOBACCO

SEC. 102. Effective for the 1982 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grades of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided,* That the weighted average of the support rates for all eligible grade of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price-support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

"(e) If the Secretary determines that, notwithstanding the adjustments in the support price made under subsection (d), the supply of any eligible grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will have a support rate which will likely be excessive under current market conditions, the Secretary, after prior approval of the association through which price support for Flue-cured tobacco is made available to producers, may designate such grade of tobacco as 'excessively priced'. If a grade of tobacco is so designated, the Secretary shall provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade shall be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco may also market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction shall, notwithstanding any other provision of law, not be considered marketed for purposes of marketing or poundage quotas and penalties under subtitle B, part I, of the Agricultural Adjustment Act of 1938: *Provided,* That a quantity of tobacco equal to the quantity marketed at such special auction shall be deducted from any undermarketings for purposes of such subtitle. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.".

TITLE II—MODIFICATION OF FLUE-CURED TOBACCO MARKETING QUOTA SYSTEM

LEASE AND SALE OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 201. (a) Section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "but in accordance with this section," after "law,";

(3) by inserting "shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and" after "program,";

(4) by inserting "Flue-cured," after "burley,";

(5) by inserting a comma before "to lease"; and

(6) by adding at the end thereof the following new paragraph:

"(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

"(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year; .

"(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

"(iii) such lease will not impair the effective operation of the tobacco marketing quota or price-support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in an adjoining county within the same State for use in such adjoining county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall be not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such adjoining county to be in compliance with the provisions of this section.

"(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any

Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

"(i) between the lessor and lessee; or

"(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

"(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease."; and

(7) by amending the section heading for such section to read as follows:

"LEASE OR SALE OF ACREAGE ALLOTMENTS".

(b) Section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended—

(1) in the first sentence—

(A) by inserting "or sale and transfer" after "lease and transfer"; and

(B) by striking out "such lease" and inserting in lieu thereof "the lease or sale agreement, as the case may be,";

(2) by striking out the second sentence and inserting in lieu thereof the following: "In the case of a lease and transfer of any Flue-cured tobacco allotment

or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing on the record, the Secretary, through such county committee, determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing on the record, the Secretary, through a local review committee which the Secretary shall appoint under section 363 of this Act (without regard to whether such lessor requested appointment of such local review committee), determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Court review of any determination so made by a county committee or by a local review committee shall be available in the same manner as is provided for court review of determinations of local review committees under sections 365, 366, 367, and 368 of this Act."; and

(3) in the third sentence (as in effect before the amendment made by paragraph (2))—

(A) by inserting "by lease or sale" after "transferred"; and

(B) by striking out "lease and".

(c) Section 316(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(e)) is amended—

(1) by inserting "(1)" after "(e)";

(2) by inserting "or sale" after "lease";

(3) by inserting "or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm" before the colon; and

(4) by adding at the end thereof the following new paragraph:

"(2) For purposes of this section, the term 'tillable cropland' means cleared land that can be planted to crops without unusual cultivation or other preparation.".

(d) Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking out subsections (g), (h), and (i) and inserting in lieu thereof the following new subsections:

"(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved.

"(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.

"(h)(1) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(2) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(3)(A) If, after notice and an opportunity for a hearing on the record, the Secretary through the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

"(B) Court review of any such determination shall be available in the same manner as is provided in sections 365, 366, 367, and 368 of this Act for court review of determinations of local review committees.".

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 202. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this Act—

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.); and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of such Act (7 U.S.C. 1314b(g)) not later than December 1, 1983, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which the total acreage allotted for the production of

Flue-cured tobacco under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) exceeds 50 per centum of such farm's tillable cropland, as defined in section 316(e)(2) of such Act (7 U.S.C. 1314b(e)(2)), shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c).

(c)(1) If, after notice and an opportunity for a hearing on the record, the Secretary, through the appropriate county committee, determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(h)(3)(A)).

(2) Court review of any such determination shall be available in the same manner as is provided in sections 365, 366, 367, and 368 of such Act (7 U.S.C. 1365, 1366, 1367, and 1368) for court review of determinations of local review committees.

PERIODIC ADJUSTMENT OF NATIONAL YIELD FACTOR FOR FLUE-CURED ACREAGE-POUNDAGE QUOTAS

SEC. 203. Section 317(a)(7) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(7)) is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, in 1983, and at five-year intervals thereafter, the national yield factor for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving average yield with adjustments in individual farms based on yield history.".

DIRECT SALES OF FLUE-CURED TOBACCO BY COOPERATIVE ASSOCIATIONS

SEC. 204. Any cooperative association owned and controlled by producers of Flue-cured tobacco and utilized by such Corporation in its price-support operations may engage in—

(1) direct domestic sales of any stocks of Flue-cured tobacco held by such cooperative association; and

(2) direct export sales of any such stocks held by such cooperative association for not less than two years.

CONFORMING AMENDMENTS

SEC. 205. (a) The fifth sentence of section 317(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(f)) is amended by inserting "and sold" after "leased".

(b) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is amended—

(1) by striking out "lease and" each place it appears;

(2) by striking out "lessee" each place it appears and inserting in lieu thereof "transferee";

(3) by striking out "lessor" each place it appears and inserting in lieu thereof "transferor"; and

(4) by striking out "leased" and inserting in lieu thereof "transferred".

EFFECTIVE DATE

SEC. 206. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by this title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act.

BRIEF EXPLANATION OF H.R. 6590
AS ORDERED REPORTED BY THE
SUBCOMMITTEE ON TOBACCO AND PEANUTS

Section 1 provides that the legislation may be cited as the "No Net Cost Tobacco Program Act of 1982."

Section 2 contains Congressional findings that (1) refer to the intent of Congress, as expressed in the 1981 Farm Bill, that the tobacco program be carried out at no net cost to the taxpayer other than administrative expenses common to price support programs, and (2) conclude that the measures provided for in the bill should be instituted to achieve that objective.

Title I

Title I of the bill contains modifications of the tobacco price support program, to be effective for the 1982 and subsequent crops of quota tobacco.

Section 101 adds to the Agricultural Act of 1949 new provisions which --

(1) define various terms that are used in the section, including "association", "Corporation", "Fund", "to market", "net gain" and "quota tobacco";

(2) provide for the program to be carried out through the Commodity Credit Corporation (Corporation) through producer-owned cooperative marketing associations that make price support advances to producers under loan agreements with the Corporation;

(3) require each association to establish a capital fund to consist of contributions made by producers of all kinds of quota tobacco and holders of Flue-cured tobacco quotas or allotments who lease quotas or allotments to other persons, the fund to be used exclusively to achieve the "no net cost" objective of the bill;

(4) require producers, as a condition of eligibility for price support, to make contributions, with respect to all tobacco marketed by them, to the fund of the association which makes price support advances available to them in amounts determined by the association and approved by the Secretary. Such approval may be given only if the proposed contributions will result in a fund sufficient to reimburse the Corporation for any losses which may be suffered under its loan agreements with the association;

(5) require that the rate of the contribution by lessors of Flue-cured tobacco quotas and allotments equal the rate of the contribution to be made by producers of such tobacco as a condition of price support eligibility;

(6) permit an association to invest monies in the fund but require that earnings on investments be included in the fund;

(7) provide that any net gains from the sale of any crop of loan collateral tobacco of an association be retained by the Corporation for (a) application against any losses it sustains on other crops of the association's loan tobacco, or (b) reducing outstanding balances on any loan made by the Corporation to the association;

(8) permit the Secretary to release to the association, for use for other purposes, any net gains or amounts in the fund which exceed amounts the Secretary determines necessary to achieve the "no net cost" objective;

(9) authorize the Secretary to terminate a loan agreement or make no additional funds available to an association if the association does not comply with the requirements of the bill, in which event the Secretary is to make price support available through other means to producers who utilized the association; and

(10) provide for disposition of net gains and monies in the fund of any association which ceases to operate.

Section 102 supplements provisions of the Agricultural Act of 1949 governing the level of price support for tobacco to --

(1) authorize the Secretary to reduce the support rate which would otherwise apply to any eligible grade of any kind of tobacco in excess supply, so long as the rates for all eligible grades of the kind of tobacco average out to a level (a) that reflects not less than 65 percent of any increase in the support level for the crop of that kind of tobacco otherwise required by law, or (b) if there is no increase in the support level for such crop, not less than that support level for the crop established by law; and

(2) with respect only to eligible grades of Flue-cured tobacco which the Secretary determines would otherwise have an excessive support rate, direct the Secretary, with the prior approval of the association, to give producers the option of marketing such grades at a special auction. If a producer elects such option, the producer's tobacco of such grade will be ineligible for price support, will not count against the producer's marketing quota, but will be deducted from any undermarketings which the producer may carry forward to use the next year. With respect only to ineligible grades of Flue-cured tobacco, a producer may, with the prior approval of the association, market such grades at the special auction, with the provisions referred to above applying with respect to marketing quotas and undermarketings.

Title II

Title II of the bill contains modifications of the Flue-cured tobacco marketing quota and acreage allotment program.

Section 201 revises provisions of the Agricultural Adjustment Act of 1938 to --

(1) prohibit fall leasing of allotments or quotas except in the case of disasters, in which event fall leases may be made to owners or operators of farms in an adjoining county;

(2)(a) require that agreements for the lease of allotments or quotas be exclusively between the lessor and the lessee, or an agent who regularly represents the lessor or lessee in business transactions unrelated to tobacco, and (b) prohibit subleasing;

(3) require the lessor and lessee of an allotment or quota to certify that applicable requirements have been met and provide for consequences if a knowingly false statement is made;

(4) define "tillable cropland" as cleared land that can be planted to crops without unusual preparation;

(5) permit the sale of allotments or quotas but only to persons who are active tobacco producers within the same county;

(6) define "active tobacco producer" as a person who shares in the risk of producing tobacco in at least one of the three preceding years and generally provides that a person shall be considered to have shared such risk if (a) investment in the production of a crop is not less than 20 percent of the proceeds of the crop, (b) the amount of the return on investment is determined solely on the sale price of the crop, and (c) none of such return is received before the crop is sold;

(7) require any person who purchases an allotment or quota and fails to share in the risk of producing tobacco under such allotment or quota, to sell the allotment or quota or have it forfeited; and

(8) require any person who purchases an allotment or quota and disposes of tillable cropland to the extent that the acreage allotment exceeds 50 percent of the tillable cropland on the farm either to take action to eliminate the excess or forfeit the excess.

Section 202 contains provisions which --

(1) require entities such as governments, public utilities, educational or religious institutions (but not individuals) which are not significantly involved in the management of land for agricultural purposes, to sell their Flue-cured tobacco allotments or quotas or forfeit them; and

(2) require any person (including entities) to sell or forfeit any Flue-cured tobacco allotment which exceeds 50 percent of the farm's tillable cropland.

Section 203 adds a provision to the Agricultural Adjustment Act of 1938 to require adjustment of the national yield factor for Flue-cured tobacco to be made in 1983, and at five-year intervals thereafter, to the past five years' moving average yield, with adjustments for individual farms based on yield history.

Section 204 permits an association utilized by the Corporation in its price support operations for Flue-cured tobacco to make direct domestic sales of any of its stocks of loan tobacco and direct export sales of any of its stocks held for not less than two years.

An Amendment

Offered by Mr. Findley

H. R. 6590

On page two, lines 7 and 8, strike "other than administrative expenses common to the operation of all price-support programs,".

On page five, line 25, after "association," add "including an annual payment to the Corporation sufficient to reimburse the Federal Government for the costs of administering the program,".

AMENDMENT TO H.R. 6590

Offered by Mr. Whitley

Page 11, line 20, insert after "tobacco." the following: "For purposes of this subsection, no producer may market at the special auction a quantity of tobacco of any crop in excess of 10 per centum of the marketing quota for the farm."

AMENDMENT TO H.R. 6590

Offered by Mr. Whitley

Page 6, line 6, insert after "(2)" the following: "effective for the 1983 and subsequent crops,".

ROSE018

HR 6590

Amendment to ~~Subcommittee Print~~

Offered by Mr. Rose

Page 22, after line 1, insert the following new section:

Exemption of Certain Nonquota Tobacco from Quota Restrictions

Sec. 205. Section 320(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314f(b)) is amended--

(1) in paragraph (3) by striking out ''and'' at the end thereof;

(2) in paragraph (4) by striking out the period at the end thereof and inserting in lieu thereof ''; and''; and

(3) by adding at the end thereof the following new paragraph:

''(5) tobacco when it is nonquota tobacco and produced in a quota area in which not more than 20 acres of quota tobacco are planted for harvest in the marketing year to which such quotas apply.''.

Page 22, line 3, strike out ''Sec. 205.'' and insert in lieu thereof ''Sec. 206.''.

Page 22, line 17, strike out ''Sec. 206.'' and insert in lieu thereof "Sec. 207.".

AMENDMENT OFFERED BY MR. JONES OF NORTH CAROLINA TO H.R. 6590.

Insert new section 205 and renumber other sections accordingly.

"Sec. 205. Section 320 (b)(1) of the Agricultural Adjustment Act of 1938 is amended to read:

(1) Maryland (Type 32) tobacco when it is a non-quota tobacco and produced in a quota area on a farm for which the ASCS has a recorded history of production of Maryland (Type 32) tobacco in the crop year 1982, provided that such farms have no quota tobacco allotments, or if such allotments exist, they are forfeited."

ROSE019

Amendment to 6590

Offered by Mr. Rose

Page 15, beginning on line 6, strike out ''on the record, the Secretary, through such county committee,'' and insert in lieu thereof '', such county committee''.

Page 15, beginning on line 20, strike out ''on the record'' and all that follows through ''committee),'' on line 14, and insert in lieu thereof '', such county committee''.

Page 16, beginning on line 4, strike out ''Court'' and all that follows through ''Act.'' on line 24, and insert in lieu thereof the following: ''Notice of any determination made by a county committee under the preceding provisions shall be mailed, as soon a practicable, to the lessee or lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessee or such lessor may request, within 15 days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.''.

Page 19, line 17, strike out ''on the record, the

ROSE019

Secretary through'' and insert in lieu thereof a comma.

Page 20, beginning on line 9, strike out ''Court'' and all that follows through ''committees.'' on line 15, and insert in lieu thereof the following: ''Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within 15 days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.''.

Page 21, beginning on line 7, strike out ''on the record, the Secretary, through the appropriate county committee,'' and insert in lieu thereof '', the appropriate county committee''.

Page 21, beginning on line 15, strike out ''Court'' and all that follows through ''committees.'' on line 6, and insert in lieu thereof the following: ''Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within 15 days after notice of such determination is so mailed, may request review of such determination under section 363 of such Act (7 U.S.C. 1363).''.

DASCHL100

Amendment in the Nature of a Substitute to H.R. 6274
Offered by Mr. Daschle

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the ''Farm Crisis Act of 1982''.

TITLE I--ACREAGE LIMITATION AND NATIONAL CROPLAND CONSERVATION PROGRAMS FOR 1983 THROUGH 1985 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

WHEAT

SEC. 101. (a) Section 107B(c)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(c)(3)) is amended by striking out ''subsection (e)(2)'' each place it appears and inserting in lieu thereof ''subsection (e)(1)(B)''.

(b) Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended--

(1) in paragraph (1)--

(A) by inserting ''(A)'' after ''(e)(1)'',

(B) in the first sentence by striking out ''the Secretary may'' and all that follows through the end of such sentence and inserting in lieu thereof the following: ''if producers disapprove a national cropland conservation program proclaimed for a crop of wheat and feed grains under section 105 of the Farm Crisis Act of 1982 and if the Secretary determines that the carryover of wheat at the beginning of the marketing year which begins in the calendar year of such disapproval exceeds 5 per centum of the quantity of wheat consumed worldwide during the one-year period preceding such marketing year, then the Secretary shall establish a wheat acreage limitation program for such crop.'', and

(C) in the second sentence by striking out ''or set-aside program'',

(2) in paragraph (2)--

(A) in the first sentence--

(i) by striking out ''paragraph (1) of this subsection'' and inserting in lieu thereof ''subparagraph (A) of this paragraph'', and

(ii) by inserting ''of not less than 15 per centum'' after ''reduction''

(B) in the sixth sentence--

(i) by striking out ''(A)'' and inserting in lieu thereof ''(i)'', and

(ii) by striking out ''(B)'' and inserting in lieu thereof ''(ii)'',

(C) in the eighth sentence by striking out ''paragraph (1) of this subsection'' and inserting in lieu thereof ''subparagraph (A) of this paragraph'',

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(D) by adding at the end thereof the following: ''If such acreage limitation program is announced, then the Secretary shall make available loans and purchases for such crop under subsection (a) of this section at a level which is equal to 105 per centum of the level that would have been established for such crop under such subsection but for the operation of this sentence.'', and

(E) by redesignating such paragraph as subparagraph (B),

(3) by striking out paragraph (3) and inserting in lieu thereof the following:

''(C) If an acreage limitation program is announced under subparagraph (A) of this paragraph for a crop of wheat, then producers may enter into agreements with the Secretary under which--

''(i) such producers agree to withdraw from production (in addition to the acreage withdrawn from production under subparagraph (B) of this paragraph) and devote to conservation uses, in accordance with regulations issued by the Secretary, 15 per centum of the applicable acreage base established under subparagraph (B) of this paragraph; and

''(ii) the Secretary agrees to make available (in lieu of amounts made available under the last sentence of subparagraph (B) of this paragraph) loans and purchases to such producers for such crop under subsection (a) of this section at a level which is equal to 115 per centum of the level that would have been established for such crop under such subsection (without regard to such sentence) but for the operation of this subparagraph.'',

(4) in paragraph (4)--

(A) in the first sentence by striking out ''paragraphs (2) and (3) of this subsection'' and inserting in lieu thereof ''subparagraphs (B) and (C) of this paragraph'',

(B) in the second sentence by striking out '', hay and grazing'',

(C) by inserting after the second sentence the following: ''The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to hay and grazing.'',

(D) in the last sentence by striking out ''or set-aside'', and

(E) by redesignating such paragraph as subparagraph (D),

(5) in paragraph (5)--

(A) in the first sentence by striking out ''or set-aside'', and

(B) by redesignating such paragraph as paragraph (2),

(6) in paragraph (6)--

(A) in the first sentence by striking out '', set-aside acreage,'', and

(B) by redesignating such paragraph as paragraph (3), and

(7) by redesignating paragraph (7) as paragraph (4).

(c) Section 107B(k) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(k)) is amended by striking out ''subsection (e)(2)'' and all that follows through the period at the end thereof and inserting in lieu thereof ''subsection (e)(1)(A) of this section.''.

FEED GRAINS

SEC. 102. (a) Section 105B(c)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444d(c)(3)) is amended by striking out ''subsection (e)(2)'' each place it appears and inserting in lieu thereof ''subsection (e)(1)(B)''.

(b) Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended--

(1) in paragraph (1)--

(A) by inserting ''(A)'' after ''(e)(1)'',

(B) in the first sentence by striking out ''the Secretary may'' and all that follows through the end of such sentence and inserting in lieu thereof the following: ''if producers disapprove a national cropland conservation program proclaimed for a crop of wheat and feed grains under section 105 of the Farm Crisis Act of 1982 and if the Secretary determines that the carryover of feed grains at the beginning of the marketing year which begins in the calendar year of such disapproval exceeds 18 per centum of the quantity of feed grains utilized domestically and for export by the United States during the one-year period preceding such marketing year, then the Secretary shall establish a feed grain acreage limitation program for such crop.'', and

(C) in the second sentence by striking out ''or set-aside program'',

(2) in paragraph (2)--

(A) in the first sentence--

(i) by striking out ''paragraph (1) of this subsection'' and inserting in lieu thereof ''subparagraph (A) of this paragraph'', and

(ii) by inserting ''of not less than 15 per centum'' after ''reduction'',

(B) in the seventh sentence--

(i) by striking out ''(A)'' and inserting in lieu thereof ''(i)'', and

(ii) by striking out ''(B)'' and inserting in lieu thereof ''(ii)'',

(C) in the ninth sentence by striking out ''paragraph (1) of this subsection'' and inserting in lieu thereof ''subparagraph (A) of this paragraph'',

(D) by adding at the end thereof the following: ''If such acreage limitation program is announced, then the Secretary shall make available loans and purchases for such crop under subsection (a) of this section at a level which is equal to 105 per centum of the level that would have been established for such crop under such subsection but for the operation of this sentence.'', and

(E) by redesignating such paragraph as subparagraph (B),

(3) by striking out paragraph (3) and inserting in lieu thereof the following:

''(C) If an acreage limitation program is announced under subparagraph (A) of this paragraph for a crop of feed grains, then producers may enter into agreements with the Secretary under which--

''(i) such producers agree to withdraw from production (in addition to the acreage withdrawn from production under subparagraph (B) of this paragraph) and devote to conservation uses, in accordance with regulations issued by the Secretary, 10 per centum of the applicable acreage base established under subparagraph (B) of this paragraph; and

''(ii) the Secretary agrees to make available (in lieu of amounts made available under the last sentence of subparagraph (B) of this paragraph) loans and purchases to such producers for such crop under subsection (a) of this section at a level which is equal to 110 per centum of the level that would have been established for such crop under such subsection (without regard to such sentence) but for the operation of this subparagraph.'',

(4) in paragraph (4)--

(A) by striking out ''paragraphs (2) and (3) of this subsection'' and inserting in lieu thereof ''subparagraphs (B) and (C) of this paragraph'', and

(B) by redesignating such paragraph as subparagraph (D),

(5) in paragraph (5)--

(A) in the first sentence by striking out ''or set-aside'', and

(B) by redesignating such paragraph as paragraph (2),

(6) in paragraph (6)--

(A) in the first sentence by striking out '', set-aside acreage,'', and

(B) by redesignating such paragraph as paragraph (3), and

(7) by redesignating paragraph (7) as paragraph (4).

(c) Section 105B(k) of the Agricultural Act of 1949 (7 U.S.C. 1444d(k)) is amended by striking out ''subsection (e)(2)'' and all that follows through the period at the end thereof and inserting in lieu thereof ''subsection (e)(1) of this section.''.

UPLAND COTTON

SEC. 103. Section 103(g)(9)(A) of the Agricultural Act of 1949 (7 U.S.C. 1444(g)(9)(A)) is amended--

(1) by inserting ''(i)'' after ''(9)(A)'',

(2) in the first sentence by striking out ''the Secretary may'' and all that follows through the end of such sentence and inserting in lieu thereof the following: ''if producers disapprove a national cropland conservation program proclaimed for a crop of upland cotton under section 105 of the Farm Crisis Act of 1982 and if the Secretary determines that the carryover of upland cotton at the beginning of the marketing year which begins in the calendar year of such disapproval exceeds 4,200,000 bales, then the Secretary shall

establish for such crop a limitation on the acreage planted to upland cotton. Any such limitation shall be announced by the Secretary not later than November 1 prior to the calendar year in which the crop is harvested.'',

(3) in the second sentence (as in effect before the amendment made by paragraph (2)) by inserting ''of not less than 15 per centum'' after ''reduction'',

(4) in the seventh sentence (as in effect before such amendment)--

(A) by striking out ''(i)'' and inserting in lieu thereof ''(I)'', and

(B) by striking out ''(ii)'' and inserting in lieu thereof ''(II)'', and

(5) by adding at the end thereof the following new clauses:

''(ii) If an acreage limitation program is announced under clause (i) of this subparagraph for a crop of upland cotton, then the Secretary shall make available loans and purchases for such crop under paragraph (1) of this subsection at a level which is equal to 110 per centum of the level that would have been established for such crop under such paragraph but for the operation of this clause.

''(iii) If such acreage limitation program is announced, then producers may enter into agreements with the Secretary under which--

''(I) such producers agree to withdraw from production (in addition to the acreage withdrawn from production under clause (i) of this subparagraph) and devote to conservation uses, in accordance with regulations issued by the Secretary, 10 per centum of the applicable acreage base established under such clause; and

''(II) the Secretary agrees to make available (in lieu of amounts made available under clause (ii) of this subparagraph) loans to such producers for such crop under paragraph (1) of this subsection at a level which is equal to 120 per centum of the level that would have been established for such crop under such paragraph (without regard to clause (ii) of this subparagraph) but for the operation of this clause.''.

RICE

SEC. 104. Section 101(i)(5)(A) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)(A)) is amended--

(1) by inserting ''(i)'' after ''(5)(A)'',

(2) in the first sentence by striking out ''the Secretary may'' and all that follows through the end of such sentence and inserting in lieu thereof the following: ''if producers disapprove a national cropland conservation program proclaimed for a crop of rice under

section 105 of the Farm Crisis Act of 1982 and if the Secretary determines that the carryover of rice at the beginning of the marketing year which begins in the calendar year of such disapproval exceeds 30 per centum of the quantity of rice utilized domestically and for export by the United States during the one-year period preceding such marketing year, then the Secretary shall establish for such crop a limitation on the acreage planted to rice.'',

(3) in the third sentence by inserting ''of not less than 15 per centum'' after ''reduction'',

(4) in the eighth sentence--

(A) by striking out ''(i)'' and inserting in lieu thereof ''(I)'', and

(B) by striking out ''(ii)'' and inserting in lieu thereof ''(II)'', and

(5) by adding at the end thereof the following new clauses:

''(ii) If an acreage limitation program is announced under clause (i) of this subparagraph for a crop of rice, then the Secretary shall make available loans and purchases for such crop under paragraph (1) of this subsection at a level which is equal to 105 per centum of the level that would have been established for such crop under such paragraph but for the operation of this clause.

''(iii) If such acreage limitation program is announced, then producers may enter into agreements with the Secretary under which--

''(I) such producers agree to withdraw from production (in addition to the acreage withdrawn from production under clause (i) of this subparagraph) and devote to conservation uses, in accordance with regulations issued by the Secretary, 10 per centum of the applicable acreage base established under such clause; and

''(II) the Secretary agrees to make available (in lieu of amounts made available under clause (ii) of this subparagraph) loans to such producers for such crop under paragraph (1) of this subsection at a level which is equal to 110 per centum of the level that would have been established for such crop under such paragraph (without regard to clause (ii) of this subparagraph) but for the operation of this clause.''.

NATIONAL CROPLAND CONSERVATION PROGRAM

SEC. 105. (a) For purposes of conserving and protecting cropland and regulating agricultural production, the Secretary of Agriculture (hereinafter in this section referred to as the ''Secretary'') shall proclaim a national cropland conservation program for each of the 1983, 1984, and 1985 crops of wheat and feed grains, of upland cotton, and of rice. Such national cropland conservation program shall--

(1) require each producer engaged in the production of the crop of any commodity to which such program applies to withdraw from such production and (in accordance with regulations the Secretary shall issue) to devote to conservation uses--

(A) not less than an acreage equal to--

(i) in the case of a national cropland conservation program for wheat and feed grains, 15 percent of the sum of the acreage bases which would have been established for such producer's farm to carry out acreage limitation programs for such crop of wheat and feed grains under sections 107B(e)(1)(B) and 105B(e)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)(1)(B) and 1444d(e)(1)(B)),

(ii) in the case of a national cropland conservation program for upland cotton, 15 percent of the acreage base which would have been established for such producer's farm to carry out an acreage limitation program for such crop of upland cotton under section 103(g)(9)(A) of such Act (7 U.S.C. 1444(g)(9)(A)), and

(iii) in the case of a national cropland conservation program for rice, 15 percent of the acreage base which would have been established for such crop of rice under section 101(i)(5)(A) of such Act (7 U.S.C. 1441(i)(5)(A)), or

(B) not less than an acreage equal to such lesser percentage, as the Secretary may establish, of the appropriate acreage base described in subparagraph (A), taking into consideration the estimated quantity and quality of stocks of any commodity to which such national cropland conservation program applies that will be available in the United States and in foreign countries during the marketing year for such crop of such commodity and whether such stocks will be adequate to provide a stable supply of such commodity needed in the United States to meet a national emergency and for purposes of national security, and in foreign countries for consumption, and

(2) make available loans and purchases under section 107B(a), 105B(a), 103(g)(1), or 101(i)(1) of such Act (7 U.S.C. 1445b-1(a), 1444d(a), 1444(g)(1), or 1441(i)(1)) for such crop of any commodity to which such national cropland conservation program applies, except that the level of such loans and purchases shall be equal to not less than 110 percent of the level announced by the

Secretary under subsection (b)(1)(B).

(b)(1) The Secretary shall--

(A) proclaim the national cropland conservation program required under subsection (a) before the beginning of the 75-day period (or 45-day period in the case of the 1983 crop of wheat and feed grains) ending on the earliest date on which the Secretary is required to announce an acreage limitation program for the crop for any commodity to which such program applies under the provisions of the Agricultural Act of 1949 referred to in subsection (a)(1)(A), and

(B) announce, before the beginning of the 7-day period ending on the date on which a referendum is held under paragraph (2), the level of loans and purchases which the Secretary will make available for such crop of any commodity involved under section 107B(a), 105B(a), 103(g)(1), or 101(i)(1) of such Act (7 U.S.C. 1445b-1(a), 1444d(a), 1444(g)(1), or 1441(i)(1)) if such national cropland conservation program is disapproved in such referendum and if no acreage limitation program changing such level is established under such Act.

(2) Not later than 30 days (or 20 days in the case of the 1983 crop of wheat and feed grains) after the date on which such national cropland conservation program is so proclaimed, the Secretary shall conduct a referendum, by

secret ballot, of producers engaged in the production of the crop of any commodity involved for harvest in the calendar year in which such referendum is held, to determine whether such producers approve or disapprove of such national cropland conservation program.

(3) Not later than 30 days (or 17 days in the case of the 1983 crop of wheat and feed grains) after the date on which such referendum is held, the Secretary shall announce the results of such referendum. If not less than 55 percent of the producers voting in such referendum vote for such national cropland conservation program, then the Secretary shall proclaim that such program is approved and shall take effect. If less than 55 percent of such producers vote for such program, then the Secretary shall proclaim that such program is disapproved and shall not take effect.. .

(c)(1) Notwithstanding any other provision of law, if the Secretary proclaims that a national cropland conservation program is approved under subsection (b)(3) for a crop of any commodity and if any producer knowingly fails to withdraw from the production of such commodity the acreage required under such program, then such producer shall be ineligible to receive, during the 3 calendar years following the calendar year in which such program is approved--

(A) any loan, payment, or other benefit under the

Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) with respect to such commodity,

(B) any crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to such commodity,

(C) any financial assistance under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. 1961 prec. 1961), or

(D) any financial assistance or other benefit for conservation purposes under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.).

(2) If the Secretary proclaims that a national cropland conservation program is so approved for a crop of any commodity, then any producer who--

(1) for purposes of any acreage limitation program established under the provisions of the Agricultural Act of 1949 referred to in subsection (a)(1)(A), would have had an acreage base of zero for such commodity, and

(2) plants such crop of such commodity,

shall be ineligible, during the 3 calendar years following the calendar year in which such program is approved, for benefits under subparagraphs (A) and (B) of paragraph (1) with respect to wheat, feed grains, upland cotton, and rice,

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and for benefits under subpargraphs (C) and (D) of such paragraph.

CONFORMING AMENDMENTS

SEC. 106. (a) Section 1101(4) of the Agriculture and Food Act of 1981 (7 U.S.C. 1308(4)) is amended by striking out ''a set-aside or'' and inserting in lieu thereof ''an''.

(b) Section 109(d) of the Agricultural Act of 1949 (7 U.S.C. 1445d(d)) is amended by striking out ''acreage set-aside, reduced acreage,'' and inserting in lieu thereof ''reduced acreage''.

(c) Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended by striking out ''a set-aside or'' each place it appears and inserting in lieu thereof ''an''.

(d) Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is repealed.

SCOPE OF APPLICATION

SEC. 107. The amendments made by this title shall not apply to the 1982 crop of wheat, feed grains, upland cotton, and rice.

TITLE II--FARM STORAGE FACILITY LOAN PROGRAM

FARM STORAGE FACILITY LOAN PROGRAM

SEC. 201. The second sentence of section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by inserting before the period the following: '': And provided further, That the Corporation shall guarantee loans made to grain growers by legally organized lending institutions for the construction or purchase of facilities for the storage of grain harvested by such growers, except that not more than 90 per centum of the amount of principal and interest of any loan may be guaranteed and, in the aggregate, not more than $250,000,000 of principal and interest may be guaranteed in any fiscal year''.

TITLE III--BARTER OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE FOR STRATEGIC AND CRITICAL MATERIALS AND PETROLEUM PRODUCTS

BARTER OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE FOR STRATEGIC AND CRITICAL MATERIALS AND PETROLEUM PRODUCTS

SEC. 301. Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended--

(1) in the fourth sentence by striking out ''is authorized'' and all that follows through the end of such sentence and inserting in lieu thereof '', with the approval of the Secretary of Agriculture and in consultation with the Secretary of State, shall, to the maximum extent practicable, accept strategic and critical materials produced abroad in exchange for wheat, feed grains, upland cotton, and rice acquired by the Corporation and may accept such materials in exchange for other agricultural commodities so acquired.'',

(2) in the seventh sentence by striking out ''Secretary of the Treasury'' and inserting in lieu thereof ''Administrator of General Services'', and

(3) by inserting after the seventh sentence the following: ''If the volume of petroleum products stored in the Strategic Petroleum Reserve is less than the level established under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234), then the Corporation shall, to the maximum extent practicable, with the approval of the Secretary of Agriculture, and in consultation with the Secretary of Energy and the Secretary of State, accept petroleum products produced abroad in exchange for wheat, feed grains, upland cotton, and rice acquired by the Corporation and shall transfer such petroleum products, without reimbursement, to the Secretary of Energy to be placed in such Reserve. Insofar as practicable, in effecting exchanges under the preceding sentence, normal commercial trade channels shall be utilized.''.

TITLE IV--EMERGENCY AGRICULTURAL CREDIT

EMERGENCY AGRICULTURAL CREDIT

SEC. 401. (a) Section 202 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is amended by striking out ''The Secretary of Agriculture may'' and inserting in lieu thereof ''The Secretary of Agriculture shall''.

(b)(1) Section 207(b) of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is amended--

(A) by striking out ''$400,000'' and inserting in lieu thereof ''$200,000'', and

(B) by striking out ''$650,000'' each place it appears and inserting in lieu thereof ''$450,000''.

(2) The amendments made by paragraph (1) shall not be construed to affect any loan insured or guaranteed before the date of the enactment of this Act.

(c) Section 211 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is amended by striking out ''September 30, 1982'' and inserting in lieu thereof ''September 30, 1983''.

TITLE V--AGRICULTURAL EXPORTS

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

SEC. 501. It is the sense of the Congress that for fiscal year 1983 not less than $1,000,000,000 should be appropriated to the Agricultural Export Credit Revolving Fund established under section 4(d) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(d)).

GRAIN SALES TO UNION OF SOVIET SOCIALIST REPUBLICS

SEC. 502. It is the sense of the Congress that, as soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture should take action to initiate negotiations with the Government of the Union of Soviet Socialist Republics to establish a multiyear agreement under which such Government would purchase grain produced in the United States.

TITLE VI--WHITE HOUSE CONFERENCE ON AGRICULTURE

WHITE HOUSE CONFERENCE ON AGRICULTURE

SEC. 601. (a) The President is requested to convene a White House Conference on Agriculture, not later than 1 year after the date of the enactment of this Act, to study current problems in the agricultural sector of the economy and to develop recommendations for legislation and administrative action regarding short-term and long-term solutions to such problems.

(b) The President is requested to appoint members of the White House Conference on Agriculture from among--

(1) heads of organizations comprised of producers of agricultural commodities,

(2) representatives of the banking industry,

(3) representatives of businesses which provide services, or produce goods, used by producers of agricultural commodities,

(4) heads of organizations representing the interests of consumers, and

(5) producers of agricultural commodities.

(c) The White House Conference on Agriculture shall submit a report to the President and to the Congress, not later than 1 year after the members of such Conference are first appointed, containing recommendations developed under subsection (a).

Amend the title so as to read: ''A bill to require the Secretary of Agriculture to establish acreage limitation programs for the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice if producers of such commodities approve such programs or if domestic carryovers of such commodities reach certain levels, and for other purposes.''.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, June 16, 1982 - P.M.

~~(Sub)~~ Committee: Full

Meeting: Business

Subject: Farm Crisis Act of 1982

Bill Nos. H.R. 6274

The Full ~~(Sub)~~ Committee

met in Open Session at 1:30 p.m. o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Bowen
Mr. Rose
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Huckaby

Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Hagedorn
Mr. Coleman
Mr. Marlenee
Mr. Thomas
Mr. Hansen
Mr. Stangeland
Mr. Roberts, Kans.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Bernner, Press Secretary
Steve Adams, Staff Assistant
Floyd Gaibler, Minority Consultant
Christine Abram, Staff Assistant
Laura Hubert, Legal Intern
Peggy Pecore, Clerk

Witnesses:

NONE

Statements Filed:

NONE

Wednesday, June 16, 1982 - P.M.
Full Committee
Business Meeting
Farm Crisis Act of 1982
H.R. 6274

ACTION TAKEN:

--By voice vote agreed to English amendment to strike subsection (B) of the National Cropland Conservation Program

--By a division vote of 1 yea-12 nays, Weaver export grain bank amendment not agreed to

--By a division vote of 13 yeas-6 nays, Weaver exports-at-cost-of production amendment agreed to

--By a division vote of 15 yeas-0 nays, Evans barter amendment agreed to

--By a division vote of 18 yeas-1 nay, Stenholm amendment relative to voluntary set-asides in the event a referendum passes agreed to

--Without objection Bedell unanimous consent request to add language to his amendment, relative to determining acreage base, agreed to

--Without objection Bedell unanimous consent request to strike the word "unfair" and add "not fair and equitable", in his amendment, agreed to

--Without objection Bedell unanimous consent request to add language to his amendment, relative to definition of producer, agreed to

--By a division vote of 11 yeas-8 nays, Bedell amendment, as amended, relative to the right to appeal to an ASCS committee regarding acreage base determination agreed to

--Without objection, English amendment relative to producer participation in the National Cropland Conservation Program agreed to with permission given to counsel to make the necessary technical corrections agreed to

--By a division vote of 18 yeas-0 nays, Daschle amendment relative to crop specific acreage basis agreed to

--By a division vote of 2 yeas-13 nays, Harkin motion to order the previous question not agreed to

--By a division vote of 7 yeas-12 nays, Daschle motion to limit debate to 45 minutes not agreed to

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Chairman de la Garza called the meeting to order for the purpose of continuing consideration of the Farm Crisis Act. See A.M. minutes of this date for a copy of the Daschle substitute amendment being used as the markup vehicle.

After the Committee recessed to respond to a call of the House, Mr. English was recognized to offer an amendment to the National Cropland Conservation Program section of the substitute as follows:

> On page 15, strike lines 5 through 18

A brief discussion occurred after which the Chairman put the question on the amendment and it was agreed to by a voice vote.

Mr. Weaver was recognized to offer an amendment (attached) which would give the Secretary of Agriculture discretionary authority to establish an export grain bank. After a general discussion, Mr. Daschle moved the previous question and the amendment was not agreed to by a division vote of 1 yea-12 nays.

Mr. Weaver offered a second amendment (attached) which would state that it is the sense of the Congress that grain for export should not be sold for less than the cost of production. After a brief discussion, the Chairman put the question on the amendment and it was agreed to by a division vote of 13 yeas-6 nays.

Mr. Evans was recognized to offer an amendment (attached) which would require reimbursement to the CCC for grain bartered for petroleum which had been placed in the Strategic Petroleum Reserve. After the amendment was explained, the Chairman put the question on the amendment and it was agreed to by a division vote of 15 yeas-0 nays.

The Chairman recognized Mr. Stenholm who offered an amendment (attached) relative to voluntary set-asides in the event a referendum passes. General discussion followed, during which it was agreed that staff would prepare language to be offered relative to crop-specific set-asides. The Chairman put the question on the Stenholm amendment and it was agreed to by a division vote of 18 yeas-1 nay.

Mr. Bedell was recognized to offer an amendment (attached) relative to the right to appeal to an ASCS committee regarding acreage base determination. After a brief discussion, Mr. Bedell asked for unanimous consent to add the following sentence at the end of his amendment:

> One of the factors to be considered would be the farm's normal crop acreage.

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There was no objection to Mr. Bedell's request.

Mr. Bedell asked unanimous consent to strike the word "unfair" in the third line of his amendment and to add "not fair and equitable". There was no objection to his request.

After discussion, Mr. Bedell asked unanimous consent to add the words "including a producer with no prior acreage base" after the word "producer" in the second line of amendment, and there was no objection.

The Chairman put the question on the Bedell amendment as amended, and it was agreed to by a division vote of 11 yeas-8 nays.

Discussion occurred on penalties the substitute amendment would place on producers who knowingly failed to set aside acreage required under the National Cropland Conservation Program. Mr. English suggested adding the words "unless such producer participates in subsequent years" after the word "approved" on page 17, line 24. After further discussion, the Chairman asked if there were objection to the English amendment. There was no objection and the Chairman instructed counsel to insert the amendment, refined if necessary, in the proper place in this section of the substitute.

Mr. Daschle was recognized to offer an amendment (attached) relative to crop specific acreage basis which had been discussed earlier during consideration of the Stenholm amendment. After Members had a change to review the amendment, the Chairman asked for a vote and the amendment was agreed to by a division vote of 18 yeas-0 nays.

Mr. Harkin moved the previous question on reporting the bill, as amended, and the previous question was not ordered by a division vote of 2 yeas-13 nays.

Mr. Bedell asked that the Committee Report contain language relative to allowing producers who did not participate in the National Cropland Conservation Program to receive advice regarding soil conseration practices, and there was no objection.

Mr. Wampler was recognized to offer an amendment to the Daschle substitute (attached) and discussion occurred on limiting debate because of the hour. Mr. Daschle moved to limit all debate to 45 minutes. The Chairman asked for a vote on the Daschle motion and it was not agreed to by a division vote of 7 yeas-12 nays.

Mr. Wampler briefly explained his amendment and general discussion followed.

Wednesday, June 16, 1982 - P.M.
Full Committee
Business Meeting
Farm Crisis Act of 1982
H.R. 6274

There being a vote on the House Floor, the Chairman adjourned the meeting at 5:37 and announced the Committee would meet at 10:00 a.m. on Thursday, June 17, 1982 at which time the pending business would be the Wampler amendment.

Peggy Pecore
Peggy Pecore

WEAVER073

Amendment to H.R. 6274
Offered by Mr. Weaver

Page 23, after line 5, insert the following new section:

DISCRETIONARY ESTABLISHMENT OF EXPORT GRAIN BANK

SEC. 503. (a) THE SECRETARY, IN HIS DISCRETION, MAY ESTABLISH AN EXPORT GRAIN BANK IN ACCORDANCE WITH THIS SECTION. The function of any Export Grain Bank so established shall be--

(1) to administer, in accordance with this section, a system providing for 2 prices for agricultural commodities, 1 for foreign sales and 1 for domestic sales, and

(2) to make certain regular payments to producers of agricultural commodities out of the additional revenues obtained from foreign sales under this section.

(b)(1) If an Export Grain Bank is established by the Secretary under subsection (a), then no person who enters into a contract of sale of an agricultural commodity for export may export such commodity unless--

(A) such contract is approved by the Secretary under paragraph (3), and

(B) such person agrees to make the payments required under subsection (d).

(2) Any person seeking approval of a contract under paragraph (1) shall provide the Secretary with a written

statement setting forth--

(A) the financial terms of such contract,

(B) the quantity of each agricultural commodity to be sold for export,

(C) the identity of the buyer of such commodity, and

(D) the destination to which such commodity is to be exported.

(3) For purposes of paragraph (1), the Secretary shall approve any contract of sale of an agricultural commodity for export unless the price (excluding transportation, handling, and related charges) to be paid under such contract for such commodity is less than the minimum price established by the Secretary for such commodity under subsection (c).

(c) For purposes of carrying out subsection (b)(3), the Secretary shall establish, with respect to each agricultural commodity, a minimum price below which the sale of such commodity for export may not be made. Such minimum price shall be the price which the Secretary, taking into consideration current domestic and foreign commodities markets, determines--

(1) will achieve the greatest aggregate profits, and

(2) is reasonably obtainable in foreign markets.

(d)(1) Except as provided in paragraph (2), each person receiving approval under subsection (b)(3) of a contract of sale of an agricultural commodity for export shall, with respect to such contract, pay into the Export Grain Bank Fund established in subsection (e) an amount equal to the difference between--

(A) the minimum price established for such commodity under subsection (c), and

(B) the domestic market price of such commodity, including a reasonable margin of profit, as determined by the Secretary.

(2) The Secretary may, with respect to any person, reduce the amount payable into the Export Grain Bank Fund if the Secretary determines that such reduction of such amount is necessary to prevent undue hardship to such person.

(e)(1) If the Secretary establishes an Export Grain Bank under subsection (a), then there shall be established in the Treasury of the United States an Export Grain Bank Fund, in which there shall be deposited amounts paid under subsection (d).

(2) To the extent provided in advance by appropriation Acts, amounts from such Fund--

(A) shall be made available to the Secretary for payments to producers of agricultural commodities under subsection (f), and

(B) shall be made available for any other program administered by the Secretary.

(f)(1) Amounts made available to the Secretary under subsection (e)(2)(A) shall be paid, at such times and in such manner as the Secretary shall prescribe, to each producer who certifies to the Secretary the aggregate amount of each agricultural commodity which such producer produced in a marketing year.

(2)(A) Except as provided in subparagraph (B), the amount payable to a producer under paragraph (1) with respect to an agricultural commodity produced in a marketing year shall be equal to the product of--

(i) the amount of the appropriation to be distributed under paragraph (1) with respect to such commodity and such marketing year, and

(ii) the ratio of--

(I) the aggregate amount of such commodity certified by such producer under paragraph (1) for such marketing year, and

(II) the aggregate amount of such commodity certified by all producers under paragraph (1) for such marketing year.

(B) In determining the amount payable to a producer under subparagraph (A) for the first marketing year for which payments are made under such subparagraph, the Secretary shall adjust the ratio described in such subparagraph to include amounts stored by producers in the producer storage program for wheat and feed grains which is administered by the Secretary under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e).

(3) Any amount which may be payable to a producer in any year under this subsection shall be paid in installments at such regular intervals not to exceed 120 day periods as the Secretary shall prescribe.

(g)(1) There is established in the Department of Agriculture an advisory committee for the purpose of advising the Secretary with regard to the responsibilities of the Secretary under this section.

(2) Such advisory committee shall be composed of 7 members, who shall be appointed by the Secretary from the various sectors of the agricultural community. Not fewer than 4 of such members shall be appointed from among producers of agricultural commodities.

(3) Such advisory committee shall terminate on October 1, 1986.

(h) For purposes of this section--

(1) the term ''agricultural commodity'' means wheat, corn, grain sorghums, barley, oats, rye, and rice,

(2) the term ''producer'', when used with respect to an agricultural commodity, means any person actively engaged in producing such commodity, and

(3) the term ''Secretary'' means the Secretary of Agriculture.

(i)(1) This section shall not apply to any contract of sale of an agricultural commodity for export which is entered into before a date on which the Secretary establishes an Export Grain Bank under subsection (a), except to the extent that such contract is extended or otherwise modified after such date of establishment.

(2) This section shall not apply to any contract of sale of an agricultural commodity for export which is entered into after October 1, 1986, unless such contract is an extension or modification of a contract entered into not later than October 1, 1986.

(j) This section shall take effect on October 1, 1982.

Amendment to the Substitute to H.R. 6274
offered by Mr. Weaver

Page 23, at line 5, strike the period and add the following:

"at no less than the cost of production."

Amendment to the Amendment by Mr. Daschle
in the Nature of a Substitute to H.R. 6274
Offered by Mr. Evans of Iowa

On page 21, line 15, strike out "without reimbursement,"

On page 21, line 16, at the end thereof add the following new sentence: "The Corporation shall be reimbursed by the Secretary of Energy from funds in the SPR Petroleum Account made available under Section 167(b) of the Energy Policy and Conservation Act (42 U.S.C. 6247(b)) for materials so transferred and for any storage and transportation costs incurred by the Corporation in connection with such materials after their arrival at a port of entry in the contiguous United States."

STENH0100

Amendment to the Proposed Substitute to H.R. 6274

Offered by Mr. Stenholm

After section 105(a)(2), insert the following (at page 16 of the proposed substitute, after line 1):

(~~2~~3) allow each producer engaged in the production of the crop of any commodity to which such program applies to withdraw from such production, and in such event require that he or she devote to conservation uses (in accordance with regulations the Secretary shall issue)--

(A) not less than an acreage equal to --

(i) in the case of a national cropland conservation program for wheat and feed grains, in addition to that portion of the acreage base of the producer's farm required to be withdrawn under the provisions of section 105(a)(1)(A)(i) or 105(a)(1)(B), a further 10 per centum of such acreage base,

(ii) in the case of a national cropland conservation program for upland cotton, in addition to that portion of the acreage base of the producer's farm required to be withdrawn under the provisions of section 105(a)(1)(A)(ii) or section 105(a)(1)(B), a further 10 per centum of such acreage base,

(iii) in the case of a national cropland conservation program for rice, in addition to that portion of the acreage base of the producer's farm required to be withdrawn under the provisions of section 105(a)(1)(A)(iii) or section 105(a)(1)(B), a further 10 per centum of such acreage base, or

(B) not less than an acreage equal to such ~~lesser~~ other percentage, as the Secretary may establish, of the appropriate acreage base described in subparagraph (A), taking into consideration the estimated quantity and quality of stocks of any commodity to which such national cropland conservation program applies that will be available in the United States and in foreign countries during the marketing year for such crop of such commodity and whether such stocks will be adequate to provide a stable supply of such commodity needed in the United States to meet a national emergency and for purposes of national security, and in foreign countries for consumption, and

(4) make available loans and purchases under section 107B(a), 105B(a), 103(g)(1), or 101(i)(1) of such Act (7 U.S.C. 1445b-1(a), 1444d(a), 1444(g)(1), or 1441(i)(1)) for such crop of any commodity to which such national cropland conservation program applies, except that the level of such loans and purchases shall be equal to not less than 120 per centum of the level announced by the Secretary under subsection (b)(1)(B), provided that the producer has withdrawn the additional percentage of his or her acreage base as specified in 105(a)(3) of this act.

Amendment offered by Mr. Bedell:

Page 19, insert a new section immediately after line 2, as follows:

SEC. 105A: Notwithstanding any other provision of law, any producer who believes that his acreage base for the farm for any crop of wheat, feed grains, cotton, or rice is unfair because of special circumstances applicable to the farm, the producer may request the county ASC Committee to review its determination as to the acreage base for the farm, and the Committee may adjust the base if in its sole discretion it determines that an adjustment to take account of the special factors would establish a more fair and equitable base for the farm.

AMENDMENT TO SUBSTITUTE TO H.R. 6274

Offered by Mr. Daschle

1. On page 14, strike out lines 9 through 17, insert in lieu thereof the following, and renumber the succeeding subdivisions accordingly:

"(i) in the case of a national cropland conservation program for wheat, 15 percent of the sum of the acreage base which would have been established for such producer's farm to carry out acreage limitation programs for such crop of wheat under section 107B(e)(1)(B) of the Agricultural Act of 1949,

"(ii) in the case of a national cropland conservation program for feed grains, 15 percent of the sum of the acreage base which would have been established for such producer's farm to carry out acreage limitation programs for such crop of feed grains under section 105B(e)(1)(B) of the Agricultural Act of 1949,".

2. On page 17, line 5, insert after "program" the following: ": Provided, That a single combined referendum shall be conducted for producers of wheat and feed grains".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Thursday, June 17, 1982

~~(Sub)~~Committee: Full

Meeting: Business

Subject: Farm Crisis Act of 1982

Bill Nos. H.R. 6274

The Full ~~(Sub)~~ Committee

met in Open Session at 10:30 AM o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Jones, Tenn.
Mr. Brown
Mr. Bowen
Mr. Rose
Mr. Weaver
Mr. Harkin
Mr. Bedell
Mr. English
Mr. Fithian
Mr. Panetta
Mr. Huckaby

Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Hagedorn
Mr. Coleman
Mr. Marlenee
Mr. Thomas
Mr. Hansen
Mr. Stnageland
Mr. Roberts, Kan.
Mr. Emerson
Mr. Napier
Mr. Skeen
Mr. MOrrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Steve McCoy, Staff Economist
Bernie Brenner, Press Secretary
Steve Adams, Staff Assistant
John Bailey, Minority Consultant
Dave Ebersole, Minority Consultant
Christine Abram, Staff Assistant
Laura Hubert, Legal Intern
Peggy Pecore, Clerk

Best Available Copy

Witnesses:

In audience to respond to questions from Members of the Committee:

Mr. Dawson Ahalt, Deputy Assistant Secretary for Economics, Department of Agricutlure, Washington, D.C.

Statements Filed:

NONE

Thursday, June 17, 1982
Full Committee
Business Meeting
Farm Crisis Act of 1982
H.R. 6274

ACTION TAKEN:

--Without objection agreed to Daschle unanimous consent request to perfect his substitute amendment by incorporating Titles II, III, and IV of the Wampler amendment

--By a voice vote agreed to English amendments en bloc to change the authority of the Secretary of Agriculture relative to export credit sales

--By a voice vote agreed to Hagedorn amendment to Title V of the Wampler amendment, relative to changing the delivery date of commodities for which contracts had been entered into before export restrictions had been imposed

--By a division vote of 11 yeas-11 nays, Hagedorn amendment to Title VII of the Wampler amendment relative to Export-Import Bank financing of only processed agricultural commodities not agreed to

--By a rollcall vote of 18 yeas-24 nays, the Wampler amendment, as amended, was not agreed to

--Objection was heard to Stenholm unanimous consent request to add the word "estimated" with regard to the cotton loan rate to be established if the referendum passes

--Without objection agreed to Stenholm unanimous consent request to strike Soil Conservation Program benefits as a penalty a producer would have to pay if he knowingly failed to set aside acreage as required under the National Cropland Conservation Program

--Without objection agreed to Marlenee unanimous consent request to strike Federal Crop Insurance Program benefits as a penalty under the same circumstances as the Stenholm amendment (above)

--By a rollcall vote of 21 yeas-21 nays, the Daschle substitute amendment, as amended, to H.R. 6274, not agreed to

Chairman de la Garza called the meeting to order to continue consideration of the Wampler amendment to the Daschle substitute amendment to H.R. 6274. See June 16, 1982 A.M. minutes for the Daschle substitute, and P.M. minutes, same date, for the Wampler amendment.

Thursday, June 17, 1982
Full Committee
Business Meeting
Farm Crisis Act of 1982
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Mr. Wampler was recognized and he called on several Members to explain individual Titles of his amendment as follows: Mr. Hagedorn Title I; Mr. Roberts, South Dakota, Title II; (Mr. Wampler explained Title III); Mr. Evans, Title IV; Mr. Emerson, Title V; Mr. Roberts, Kansas, Title VI; and Mr. Evans, Title VII. Discussion was held on each Title after it had been explained.

Mr. Daschle asked unanimous consent to offer a perfecting amendment to his amendment by incorporating Titles II, II, and IV of the Wampler amendment in his substitute, and without objection these Titles were made a part of the substitute.

Mr. English was recognized to offer amendments to Title I of the Wampler amendment, relative to the authority of the Secretary of Agricutlure, as follows:

> On page 1, line 2 of section 116, strike the words "is authorized", and insert the the word "shall"
>
> On page 1, line 11 of section 116, strike the word "may" and insert "shall"
>
> On page 1, line 12 of section 116, strike the word "may" and insert "shall"

Mr. Volkmer suggested that the word "to" on line 4 of section 116 should be striken. Without objection, the amendments were considered en bloc and they were agreed to by a voice vote.

Mr. Hagedorn was recognized to offer an amendment to change the delivery date of commodities for which contracts had been entered into before export restrictions had been imposed, from 180 days to 2 years. After a brief discussion, the amendment was agreed to by a voice vote. The Chairman announced the staff would be given discretion to break down the 2 years into a prerequisite number of days.

Mr. Hagedorn was recognized to offer a second amendment relative to Export-Import Bank financing of only "processed" agricultural commodities. Discussion occurred. Mr. Hagedorn asked for a division vote and by a vote of 11 yeas-11 nays, his amendment was not agreed to

Chairman de la Garza asked for a vote on the Wampler amendment, as amended. Mr. Glickman requested a record vote. The Chairman announced that a sufficient number of Members supported the Glickman request, and he instructed the clerk to call the roll. The vote follows:

Thursday, June 17, 1982
Full Committee
Business Meeting
Farm Crisis Act of 1982
H.R. 6274

YEAS

1. Mr. Wampler
2. Mr. Findley (proxy to Mr. Wampler)
3. Mr. Jeffords (proxy to Mr. Wampler)
4. Mr. Hagedorn
5. Mr. Coleman
6. Mr. Marlenee
7. Mr. Hopkins (proxy to Mr. Wampler)
8. Mr. Thomas
9. Mr. Hansen (proxy to Mr. Wampler)
10. Mr. Stangeland
11. Mr. Roberts, Kans.
12. Mr. Emerson
13. Mr. Skeen
14. Mr. Morrison
15. Mr. Roberts, S. Dak.
16. Mr. Gunderson
17. Mr. Evans
18. Mr. Chappie

NAYS

1. Mr. Foley (proxy to Mr. de la Garza)
2. Mr. Jones, N.C. (proxy Mr. de la Garza)
3. Mr. Jones, Tenn. (proxy to Mr. Daschle)
4. Mr. Bowen
5. Mr. Rose (proxy to Mr. Daschle)
6. Mr. Richmond (proxy to Mr. de la Garza)
7. Mr. Weaver
8. Mr. Harkin (proxy to Mr. Daschle)
9. Mr. Bedell
10. Mr. English
11. Mr. Fithian (proxy to Mr. Bedell)
12. Mr. Panetta (proxy to Mr. Daschle)
13. Mr. Huckaby
14. Mr. Glickman
15. Mr. Whitley
16. Mr. Coelho
17. Mr. Daschle
18. Mr. Stenholm
19. Mr. Volkmer
20. Mr. Hatcher
21. Mr. Dorgan
22. Mr. Albosta
23. Mr. de la Garza
24. Mr. Napier

Thus, by a vote of 18 yeas-24 nays, the Wampler amendment, as amended, was not agreed to.

Mr. Stenholm was recognized to make two unanimous consent requests: (1) To add the word "estimated" in the cotton section of the substitute with regard to the loan rate, which, after discussion, was objected to by Mr. Thomas, and (2) To strike Soil Conservation Program benefits as a penalty a producer would have to pay if he knowingly failed to set aside acreage as required under the National Cropland Conservation Program, which was agreed to without objection.

Mr. Marlenee asked unanimous consent to strike Federal Crop Insurance benefits as a penalty under the same circumstances as the Stenholm request above. There was no objection.

The Chairman put the question on the Daschle substitute amendment, as amended, and requested the clerk to call the roll. The vote follows:

Thursday, June 17, 1982
Full Committee
Business Meeting
Farm Crisis Act of 1982
H.R. 6274

YEAS

1. Mr. Foley (proxy to Mr. de la Garza)
2. Mr. Jones, N.C. (proxy to Mr. de la Garza)
3. Mr. Jones, Tenn.
4. Mr. Rose
5. Mr. Richmond (proxy to Mr. de la Garza)
6. Mr. Weaver
7. Mr. Harkin
8. Mr. Bedell
9. Mr. English
10. Mr. Fithian
11. Mr. Panetta
12. Mr. Glickman
13. Mr. Whitley
14. Mr. Daschle
15. Mr. Stenholm
16. Mr. Volkmer
17. Mr. Hatcher
18. Mr. Dorgan
19. Mr. Albosta
20. Mr. de la Garza
21. Mr. Stangeland

NAYS

1. Mr. Wampler
2. Mr. Findley (proxy to Mr. Wampler)
3. Mr. Jeffords (proxy to Mr. Wampler)
4. Mr. Hagedorn
5. Mr. Coleman
6. Mr. Marlenee
7. Mr. Hopkins (proxy to Mr. Wampler)
8. Mr. Thomas
9. Mr. Hansen (proxy to Mr. Wampler)
10. Mr. Roberts, Kans.
11. Mr. Emerson
12. Mr. Napier
13. Mr. Skeen
14. Mr. Morrison
15. Mr. Roberts, S. Dak.
16. Mr. Gunderson
17. Mr. Evans
18. Mr. Chappie
19. Mr. Bowen
20. Mr. Huckaby
21. Mr. Coelho

Thus, by a vote of 21 yeas-21 nays, the Daschle substitute amendment, as amended, to H.R. 6274, was not agreed to.

The Committee adjourned at 1:10 p.m., to reconvene subject to the call of the Chair.

Peggy Pecore

Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, June 22, 1982

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing

Subject: Review of budget proposals for the brucellosis eradication program

Bill Nos. None

The Livestock, Dairy, and Poultry (Sub) Committee

met in Open Session at 10:10 am o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Harkin
Mr. Volkmer
Mr. Jones, Tenn.
Mr. Stenholm
Mr. Hatcher
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hagedorn
Mr. Hansen
Mr. Skeen
Mr. Gunderson
Mr.
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Mr.
Mr.
Mr.

Staff present:

John Hogan, Minority Counsel
George Palmer, Subcommittee Staff Director
Floyd Gaibler, Minority Consultant
Anita Brown, Staff Assistant
Laura Hubert, Legal Intern
Peggy Pecore, Clerk

-2-

Witnesses:

1. Mr. C. W. McMillan, Assistant Secretarya for Marketing and Transportation Service, U.S. Department of Agriculture,
   Accompanied by Dr. Jim Lee, Deputy Administrator, Animal and Plant Health Service

2. Mr. Bill Gallagher of Highmore, South Dakota, Chairman, Animal Health Committee, National Cattlemen's Association, Englewood, Colorado,
   Accompanied by Mr. Tom Cook, Washington, D.C. office, NCA

3. Panel

   Dr. James Acree of Jacksonville, Florida, Chairman, Animal Disease Advisory Committee, National Milk Producers Federation

   Mr. Walter Stemler of Waterloo, Illinois, representing Mid-America Dairymen, Inc.

   Mr. Morris Lee Scott of Hernando, Mississippi, representing Associated Milk Producers, Inc.

   Mr. Jack H. Hagler of Arlington, Texas, Director of Member Relations, Associated Milk Producers, Inc.

   Accomapnied by: Mr. John Adams, National Milk Producers Federation, Washington, D.C.

Statements Filed:

Honorable Harold Volkmer, Member of Congress from Missouri
Honorable Ron Marlenee, Member of Congress from Montana
Honorable Bill Emerson, Member of Congress from Missouri
Honorable Steve Gunderson, Member of Congress from Wisconsin

Tuesday, June 22, 1982
Subcommittee on Livestock, Dairy, and Poultry
Public Hearing
Review of budget proposals for the brucellosis eradication program

Chairman Harkin called the meeting to order and made remarks about the purpose of the hearing. Mr. Hagedorn and Mr. Hansen also made remarks.

The witnesses listed on page two of these minutes gave their prepared testimony and responded to questions from Members of the subcommittee as appearing in the record.

The subcommittee adjourned at 12:07 p.m., to reconvene at 2:00 p.m. this date to hear remaining witnesses on this subject.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Tuesday, June 22, 1982 P.M.

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing

Subject: Review of budget proposals for the brucellosis eradication program

Bill Nos. None

The Livestock, Dairy, and Poultry (Sub) Committee

met in Open Session at 2:00 pm o'clock, in Room 1302 LHOB

The following Members were present:

Mr. Harkin
Mr. Volkmer
Mr. Hansen
Mr. Skeen
Mr. Gunderson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.

Staff present:

George Palmer, Subcommittee Staff Director
Floyd Gaibler, Minority Consultant
Bernie Brenner, Press Secretary
Christine Abram, Staff Assistant
Laura Hubert, Legal Intern
Peggy Pecore, Clerk

Witnesses:

1. Mr. Keith W.Eckel. President, Pennsylvania Farm Bureau, for American Farm Bureau Federation, Washington, D.C., Accompanied by: Mr. Al Keating, AFBF
2. Dr. C. D. Van Houweling, National Pork Producers Council, Washington, D.C.
3. Dr. Paul Doby, Superintendent, Division of Meat, Poultry, and Livestock Inspection, Illinois Department of Agriculture, Springfield, Illinois
4. Mr. Jonathan Newkirk, Assistant to New York Commissioner of Agriculture and Markets, Albany, New York, and

   Dr. Bruce Widger, Division of Animal Industry, New York State Department of Agriculture and Markets

   for Mr. J. Roger Barber, New York State Department of Agriculture and Markets
5. Mr. Richard Nelsen of Brattleboro, Vermont, Chairman, Herd Health Committee, Purebred Dairy Cattle Association
6. Dr. Harry G. Goldstein, American Veterinary Medical Association, Columbia, Ohio
7. Dr. J. C. Shook, U.S. Animal Health Association, Hyattsville, Maryland

Statements Filed:

Tuesday, June 22, 1982
Subcommittee on Livestock, Dairy,
and Poultry
Public Hearing
To review budget proposals for the
brucellosis eradication program

Chairman Harkin called the meeting to order for the purpose of receiving testimony from the witnesses listed on page two of these minutes.

After each witnesses presented his prepared statement, he responded to questions from Members of the subcommittee.

The subcommittee recessed at 2:52 p.m. for 15 minutes to enable Members to respond to a vote on the House Floor.

The subcommittee adjourned at 4:07 p.m., to reconvene subject to the call of the chair.

Peggy Pecore
Peggy Pecore

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date June 23, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture, jointly with Science and Technology Subc. on Science, Research, and Technology

Meeting: Public Hearing

Subject: Review of the Federal commitment to human nutrition research.

Bill Nos. none

The above-named (Sub) Committees

met in open Session at 9:15 a.m. o'clock, in Room 2318 RHOB.

The following Members were present:

Mr. Brown (Calif.)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Evans
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Science, Research, and Technology Subc.

Mr. Walgren
Mr. Skeen
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Agriculture

Charles Benbrook, Subcommittee Staff Director
Jerry Jorgensen, Minority Consultant
Nancy Chapman, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

1. Honorable Paul Simon, Member of Congress from Illinois
2. Honorable Mary Jarratt, Assistant Secretary of Agriculture for Food and Consumer Services
   Acc. by: Dr. Esther Winterfeldt, Administrator, Human Nutrition Information Service
   Dr. Mary Carter, Associate Administrator, Agriculture Research Service
3. Honorable Edward N. Brandt, Jr., Assistant Secretary for Health, U.S. Department of Health and Human Services
   Acc. by: Dr. Allan Forbes, Associate Director, Nutrition and Foods Sciences, Food and Drug Administration
   Dr. Michael McGinnis, Deputy Assistant Secretary for Health
   Mr. Robert Murphy, Director, Division of Health Examination Statistics, National Center for Health Statistics
   Dr. Artemis Simopoulos, Chairman, Nutrition Coordinating Committee, National Institutes of Health
   Dr. Frederick Trowbridge, Director, Nutrition Division, Center for Health Promotion and Education, Centers for Disease Control

Statements Filed:

June 23, 1982
Department Operations, Research, and Foreign
Agriculture Subcommittee, jointly with Science
Research, and Technology Subcommittee of
Science and Technology Committee
Public Hearing
Review of Federal commitment to human nutrition
research

Chairman Brown called the hearing to order at 9:15 a.m. for the purpose of hearing and questioning the witnesses listed on page 2 of these Minutes.

At 10:15 a.m. the subcommittees went into brief recess so that Members might respond to a call from the Floor of the House.

At 11:45 a.m. the Chair adjourned the hearing, subject to the call of the Chair.

Christine D. Abram

Christine D. Abram

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date June 23, 1982

(Sub) Committee: Department Operations, Research, and Foreign Agriculture, jointly with Science and Technology Subc. on Science, Research, and Technology

Meeting: Public Hearing

Subject: Review of the Federal commitment to human nutrition research.

Bill Nos. none

The above-named (Sub) Committees

met in open Session at 9:15 a.m. o'clock, in Room 2318 RHOB

The following Members were present:

		Science, Research, and Technology Subc.
Mr. Brown (Calif.)	Mr. Evans	Mr. Walgren
Mr.	Mr.	Mr. Skeen
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Agriculture

Charles Benbrook, Subcommittee Staff Director
Jerry Jorgensen, Minority Consultant
Nancy Chapman, Staff Assistant
Christine Abram, Staff Assistant

Witnesses:

NONE

Statements Filed:

NONE

Wednesday, June 23, 1982
Subcommittee on Forests, Family
Farms, and Energy
Business Meeting
Organic Farming Act of 1982
H.R. 5618

ACTION TAKEN:

--By voice vote a series of eight(8) technical amendments by Weaver were considered en bloc and agreed to

--By voice vote Morrison amendment relative to the purpose of the legislation agreed to

--By voice vote Weaver amendment relative to pilot projects, together with a conforming amendment, agreed to

--By voice vote Weaver amendment relative to allowing the pilot projects to be conducted at land-grant and other colleges, together with a conforming amendment, agreed to

--By voice vote Weaver amendment to delete the provision for reimbursement of travel expenses for volunteers agreed to

--By voice vote agreed to Weaver amendment defining organic farming

--By voice vote Weaver amendment eliminating the need for a new funding authorization agreed to

--By voice vote Morrison technical amendments agreed to

--By voice vote agreed to Panetta motion to report H.R. 5618, as amended, to the full Committee

Chairman Weaver called the meeting to order and made remarks about the purpose of H.R. 5618 (attached). He asked that the bill be considered read and open for amendment at any point. There was no objection.

The Chairman offered a series of technical amendments (attached) which were considered and agreed to en bloc by voice vote.

Mr. Morrison was recognized to offer an amendment (attached) relative to the purpose of the legislation and it was agreed to by a voice vote.

An amendment (attached) relative to pilot projects making maximum use of the expertise and on-going research projects of the Agricultural Research Service was offered by Mr. Weaver. After the amendment had been explained, it, together with a conforming amendment, was agreed to by a voice vote.

Wednesday, June 23, 1982
Subcommittee on Forests, Family
 Farms, and Energy
Business Meeting
Organic Farming Act of 1982
H.R. 5618

Mr. Weaver offered an amendment (attached) relative to allowing the pilot projects to be conducted at both land-grant and non-land grant colleges, together with a conforming amendment. After a brief explanation, the amendments were agreed to by a voice vote.

Mr. Weaver offered an amendment (attached) to delete the provision for reimbursement of travel expenses for volunteers, and it was agreed to by a voice vote.

An amendment (attached) defining organic farming was offered by Mr. Weaver. After it was explained, the amendment was agreed to by a voice vote.

Mr. Weaver offered an amendment (attached) which would eliminate the need for a new funding authorization, and it was agreed to by a voice vote.

Technical amendments (attached) were offered by Mr. Morrison and they were agreed to en bloc by a voice vote.

Mr. Panetta moved to report H.R. 5618 as amended to the full Committee, and the motion was agreed to by a voice vote.

The subcommittee adjourned at 9:35 a.m. to reconvene subject to the call of the Chair.

Peggy Pecore
Peggy Pecore

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97TH CONGRESS
2D SESSION

H. R. 5618

To require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1982

Mr. WEAVER (for himself, Mr. BEDELL, Mr. DASCHLE, Mr. VENTO, Mr. SABO, Mr. GEJDENSON, Ms. MIKULSKI, and Mr. NEAL) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Organic Farming Act of 1982".

PURPOSE

SEC. 2. It is the purpose of this Act to facilitate and promote the scientific investigation and understanding of methods of organic farming and to assist family farmers and other producers to use methods of organic farming to replace conventional chemical-intensive methods of farming. The purpose of this Act shall be achieved in a manner consistent with the family farms provisions of section 102 of the Food and Agriculture Act of 1977, as amended by the Agriculture and Food Act of 1981.

VOLUNTEER PROGRAM

SEC. 3. (a) The Secretary shall recruit, select, and train volunteers who have expertise in organic farming to advise family farmers and other producers who wish to make a transition to organic farming methods.

(b) While performing activities authorized by this Act, a volunteer shall not be considered a Federal employee except for the purposes of sections 2671 through 2680 of title 28, United States Code (relating to tort claims), and chapter 81 of title 5, United States Code (relating to compensation for injury).

(c) The Secretary is authorized to reimburse volunteers only for such necessary out-of-pocket expenses incident to their provision of services under this Act as the Secretary may prescribe, and, while they are providing such services away from their homes or regular places of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703, title 5, United States Code, for individuals serving without pay.

(d) The Secretary shall make available to volunteers, at local offices of the Cooperative Extension Service, office facilities, supplies, materials, and other related services which he deems appropriate to assist volunteers in performing activities authorized by this Act.

PILOT PROJECTS

SEC. 4. (a) The Secretary of Agriculture shall establish six pilot projects, taking into consideration the report and recommendations on organic farming, United States Department of Agriculture (July 1980), and giving particular emphasis to implications for the family farm—

(1) to develop and present scientific information on legume-based crop rotation, green manure crops, animal manures, soil acidity and liming in relation to nutrient release, intercropping, the role of organic matter in soil productivity and erosion control, and non-chemical weed and insect control; and

(2) to investigate soil, crop, weed, and insect management problems inherent in making the transition from conventional chemical-intensive methods of farming to methods of organic farming.

(b) The pilot programs established under subsection (a) shall be carried out through agreements with six land-grant colleges and universities located in and representing different geographical regions of the United States.

DUTIES OF SECRETARY WITH RESPECT TO ORGANIC FARMING

SEC. 5. The Secretary, acting through the Assistant Secretary of Agriculture who performs the duties necessary to carry out the National Agricultural Research, Extension, and Teaching Policy Act of 1977, shall—

(1) serve as a coordinator and consultant to land-grant colleges and universities in designing all pilot research and education projects adapted to serve specific regional organic farming needs;

(2) by January 1, 1984, make available to the public, through local offices of the Cooperative Extension Service, existing information on organic farming, such as that set forth under subsection (a) of section 4;

(3) make available to the public, through local offices of the Cooperative Extension Service, informa-

tion developed through implementation of the pilot projects established under section 4;

(4) obtain and maintain demographic information regarding producers engaged in organic farming;

(5) identify problems and needs of family farmers and other producers engaged in organic farming, with respect to information, support, and incentive programs related to organic farming;

(6) identify marketing and distribution problems and needs of producers engaged in organic farming who operate family farms; and

(7) identify public policy issues which relate to or affect organic farming.

REPORT TO CONGRESS

SEC. 6. Not later than the end of the calendar year in which a fiscal year ends, the Secretary shall submit to each House of the Congress—

(1) a report on the volunteer program established under section 3, and

(2) a report describing the activities and projects related to organic farming research and education, in which the Department of Agriculture participated in such fiscal year. This report shall include proposals for necessary authority and funding to address the needs identified in the report.

DEFINITIONS

SEC. 7. For purposes of this Act—

(1) the term "cooperative extension services" shall have the meaning given it in section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977,

(2) the term "extension" shall have the meaning given it in section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977,

(3) the term "land-grant colleges and universities" shall have the meaning given it in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, and

(4) the term "Secretary" means the Secretary of Agriculture.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) There is authorized to be appropriated such sums as may be necessary to carry out the volunteer program established under section 3 for fiscal years 1984, 1985, 1986, 1987, and 1988, which sums shall remain available until expended: *Provided*, That the total amount appropriated to carry out the volunteer program for such fiscal years may not exceed $5,000,000.

(b) There is authorized to be appropriated $250,000 for each of the fiscal years 1984, 1985, 1986, 1987, and 1988 to carry out each of the pilot projects established under section 3(a). None of the funds authorized to be appropriated by this subsection may be expended for administrative expenses incurred by the Secretary to carry out section 3.

(c) There is authorized to be appropriated $400,000 for each of the fiscal years 1984, 1985, 1986, 1987, and 1988 to carry out section 4 and section 5.

EFFECTIVE DATE

SEC. 9. This Act shall take effect October 1, 1983.

○

Technical Amendments to
H.R. 5618

Offered by Mr. Weaver

1. page 3, line 22: Insert "municipal wastes," after "manures,".

2. page 3, line 25: Insert ",disease," after "weed".

3. page 4, line 1: Insert "disease," after "weed,".

4. page 5, line 19: Strike the comma after "section 3", and insert "of this Act,".

5. page 5, line 24: Strike "necessary authority" and insert "legislation" before "and". Insert "necessary" after "funding".

6. page 7, line 4: Strike "3(a)", and insert "4(a)".

7. page 7, line 6: Strike "3", and insert "4".

8. page 7, line 9: Strike "4" and "5", and insert "5" and "6" respectively.

Mr. Morrison

AMENDMENT TO H.R. 5618

On page 2 line 18, before the words "to organic" add the following: "in whole or in part".

On page 5, line 6, after the word "engaged" add the following: "in whole or in part"

On page 5, line 10, after the word "engaged" add the following: "in whole or in part"

The following amendment to H.R. 5618 is offered by Mr. Weaver

A new section (c) is added to section 4:

"The pilot projects established under subsection (a) shall be planned and coordinated in conjunction with the Agricultural Research Service and shall take full advantage of the expertise of Agricultural Research Service scientists working at or near the site of the pilot projects."

Explanation: The amendment insures that the pilot projects will make maximum use of the expertise and on-going research projects of the Agricultural Research Service.

and

page 4, line 16: Insert "and the Agricultural Research Service" after "universities".

Explanation: To conform the reference in line 16 to the newly adopted section 4(c).

The following amendment to H.R. 5618 is offered by Mr. Weaver.

section 4(b) is amended to read as follows:

"(b) The pilot projects established under subsection (a) shall be administered through special research grants or other agreements with six land grant or other colleges and universities located in and representing different geographical regions of the United States.

Explanation: To provide the Secretary with greater flexibility in designing and developing the pilot projects by allowing the projects to be conducted both at land-grant and non-land-grant colleges and universities.

and

page 4, line 16: Insert "or other" after "grant".

Explanation: To conform the reference the reference in line 16 to the newly adopted section 4(b).

The following amendment is offered by Mr. Weaver:

Page 3, line 1: Strike subsection (c).

Page 3, line 9: Strike "(d)" and insert "(c)" in lieu thereof.

Explanation: To delete the provision for reimbursement of travel expenses for volunteers in order to conform to the intent of the Act that the volunteers offer their services without compensation.

The following amendment to H.R. 5618 is offered by Mr. Weaver:

Section 7 is amended as follows:

(5) the term "organic farming" means a production system that avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators, and livestock feed additives. To the maximum extent feasible, organic farming systems rely upon crop rotation, crop residues, animal manures, legumes, green manures, off-farm organic wastes, mechanical cultivation, mineral-bearing rocks, and aspects of biological pest control to maintain soil productivity and tilth, to supply plant nutrients, and to control insects, weeds and other pests.

Explanation: The amendment adopts the definition of organic farming contained in the 1980 USDA Report and Recommendations on Organic Farming.

The following amendment is offered by Mr. Weaver:

Section 8 is amended to read as follows:

"Sec. 8. Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by inserting "and for the purpose of carrying out the provisions of the Organic Farming Act of 1982," immediately before "$505,000,000"."

Explanation: To eliminate the need for a new funding authorization by utilizing an existing agricultural research authorization program.

Mr. Morrison

AMENDMENT TO H.R. 5618

On page 2, line 8; strike the word "replace" and insert in lieu thereof the word "complement".

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date Wednesday, June 23, 1982

XXXX Committee: Full

Meeting: Business

Subject: Mount St. Helens Volcanic Area Act

Bill Nos. H.R. 5773, H.R. 6530

The Full XXXXX Committee

met in Open Session at 10:47 am o'clock, in Room 1301 LHOB

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones, Tenn.
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho

Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Dorgan
Mr. Albosta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Wampler
Mr. Hagedorn
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Hansen
Mr. Roberts, Kans.
Mr. Napier
Mr. Skeen
Mr. Morrison
Mr. Roberts, S. Dak.
Mr. Gunderson
Mr. Evans
Mr. Chappie
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Bob Bor, Chief Counsel
John Hogan, Minority Counsel
Bob Lowerre, Associate Counsel
Bernie Brenner, Press Secretary
Greg Skillman, Subc. Staff Director
Richard Fritz, Minority Consultant

Kevin Kirchner, Staff Assistant
Peggy Pecore, Clerk

[illegible]

Witnesses:

NONE

Statements Filed:

NONE

Wednesday, June 23, 1982
Full Committee
Business Meeting
Mount St. Helens National Volcanic
 Area
H.R. 5773, H.R. 6530

ACTION TAKEN:

--Without objection agreed to use the bill H.R. 6530, with text reported by the subcommittee, as the markup vehicle

--By a voice vote agreed to 10 Weaver en bloc amendments incorporating description and acreage of the lands to be exchanged between the United States and Weyerhaeuser, and Burlington Northern Inc.

--By a voice vote agreed to Weaver amendment permitting only voluntary acquisition of certain mining claims

--By a voice vote agreed to Weaver amendment precluding use of the power of eminent domain in connection with voluntary exchanges

--By a voice vote agreed to Morrison amendment relative to use of vehicles for emergency medical and rescue services

--Without objection agreed to Foley perfecting amendments to the Morrison amendment relative to use of existing roads within the volcanic area

--By a voice vote agreed to Morrison amendment, as amended

--Morrison amendment relative to permitting timber operations for reducing potential for fire withdrawn

--By voice vote agreed to Dorgan amendment, as perfected, relative to application of existing terms and conditions to exchanged lands to be received by Burlington Northern Inc.

--By a voice vote, in the presence of a quorum, agreed to Weaver motion to report H.R. 6530, as amended, to the House

--Without objection, staff was given usual authority to make technical and clarifying changes in the text of the bill, and to adjust description of boundaries or other data supplied by the Forest Service to ensure their accuracy in the reported bill

Chairman de la Garza called the meeting to order for the purpose of marking up Mount St. Helens National Volcanic Area legislation. A copy of a Committee Print of H.R. 5773, as reported by the Subcommittee on Forests, Family Farms, and Energy, is attached (for purposes of clarity, the subcommittee agreed to use H.R. 5773 as a markup vehicle, and to use as original text, substitute language offered by Mr. Morrison. The subcommittee then adopted a substitute offered by Mr. Weaver which consisted of the text of H.R. 6530, and adopted various amendments to the Weaver substitute.)

Wednesday, June 23, 1982
Full Committee
Business Meeting
Mount St. Helens National Volcanic
 Area
H.R. 5773, H.R. 6530

Mr. Weaver, chairman of the subcommittee was recognized. He asked unanimous consent that H.R. 6530, with the text ordered reported by the subcommittee, be used as the markup vehicle, and there was no objection. He summarized the provisions of the legislation and discussion followed.

Mr. Weaver was recognized to offer en bloc amendments (attached) to incorporate the actual acreages and descriptions of land to be exchanged by the United States and the Weyerhaeuser Company, and between the United States and Burlington Northern Incorporated (BN). After a brief discussion, the en bloc amendments were agreed to by a voice vote.

Mr. Weaver was recognized to offer an amendment (attached) permitting acquisition at certain mining claims only with the consent of the owner. Discussion followed, after which the amendment was agreed to by a voice vote.

Mr. Weaver was recognized to offer a third amendment (attached) allowing the power of eminent domain to be used for exchanges with Weyerhaeuser and BN only if voluntary agreement for exchanges described in the bill cannot be completed and providing that the United States is not to assume any prior contractual obligations of Weyerhaeuser or BN. After a brief discussion, the amendment was agreed to by a voice vote.

Mr. Morrison was recognized to offer an amendment (attached) to allow the use within the volcanic area of motorized vehicles for emergency medical and rescue services. Mr. Weaver supported the amendment, which was agreed to by a voice vote.

Mr. Morrison was recognized to offer a second amendment (attached) to allow use of existing roads in the volcanic area for purpose of transporting timber harvested from any lands adjacent to the volcanic area. After discussion Mr. Foley offered two perfecting amendments to the Morrison amendment as follows:

> On page 10, line 5 of the Committee Print, after the word "area", strike the comma and add the words "and on non-Federal lands in the volcanic area,"
>
> On page 10, line 25, after the word "allowed", add "on Federal lands"

The Foley amendments were agreed to without objection, and the Morrison amendment, as amended, was agreed to by a voice vote.

Wednesday, June 23, 1982
Full Committee
Business Meeting
Mount St. Helens National Volcanic
 Area
H.R. 5773, H.R. 6530

The Chairman recognized Mr. Morrison to offer a third amendment (attached) to give the Secretary of Agriculture authority to allow commercial timber salvage operations within the volcanic area where it is necessary in order to reduce the potential for fire. A general discussion followed. Mr. Weaver and Mr. Foley suggested the possibility of Committee Report language stipulating the intent of the Committee in the case of fire hazard. Mr. Morrison offered to withdraw the first part of his amendment. There being a vote on the House Floor, the Chairman announced the Committee would recess for 15 minutes.

When the Committee reconvened at 11:55 a.m., Mr. Morrison was recognized to withdraw his amendment in its entirety.

Mr. Dorgan was recognized to offer an amendment (attached) which would apply to the lands to be received by BN the same terms and conditions under the Act of July 2, 1"64, which applied to lands to be given up by BN in the exchange. Mr. Dorgan asked unanimous consent to perfect his amendment by adding ", as amended," after the words "July 2, 1864" on line 2. There was no objection. After a brief discussion, the amendment was agreed to by a voice vote.

There being no further amendments, Mr. Weaver was recognized to offer a motion to report H.R. 6530, as amended, to the House with a recommendation that it do pass. The motion was agreed to by a voice vote in the presence of a quorum (31 Members).

Mr. Foley was recognized to make a unanimous consent request that staff have the usual authority to make necessary technical and clarifying changes in the bill, and authority to make necessary adjustments in boundary lines of lands to be included in the volcanic area, which may be furnished by the Forest Service and interested parties to ensure accuracy of the descriptions to be included in the bill. There was no objection.

The Committee adjourned at 12:03 p.m., to reconvene subject to the call of the Chair.

Peggy Pecore

COMMITTEE PRINT

(As reported by the Subcommittee on Forests, Family Farms, and Energy on June 8, 1982)

97TH CONGRESS
2D SESSION

H. R. 5773

To designate certain lands in the State of Washington as a national volcanic area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1982

Mr. MORRISON (for himself and Mr. FOLEY) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Agriculture

---

A BILL

To designate certain lands in the State of Washington as a national volcanic area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(For complete text of original bill, see H.R. 5773 as introduced on March 9, 1982)

1A

FINDINGS

SECTION 1. The Congress finds that:

(1) Mount St. Helens is a resource of international significance, with inestimable scientific value, and vast potential educational and recreational benefits;

(2) the resource includes, but is not limited to, the geologic features of the lateral blast and avalanche of the 1980 eruption; recent and prehistoric lava, mud, and pyroclastic flows; tephra deposits, lava caves, batholiths, intrusive plugs and other igneous features; lakes and river courses; ecological features such as old growth forests, meadow, riparian and alpine communities; ecological responses to geologic processes; and cultural resources from prehistoric, historic, and recent time; and

(3) for the benefit and enjoyment of present and future generations of the American people a comprehensive area surrounding Mount St. Helens, which contains both unique ecologic and geologic features, communities and landforms, and those which, by contrast, are characteristic of the region, should be preserved.

ESTABLISHMENT OF NATIONAL VOLCANIC AREA

SEC. 2. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately one hundred and fifteen thousand acres, as generally depicted on a map entitled ''Mount St. Helens National Volcanic Area, June 1, 1982'', are hereby designated as the Mount St. Helens National Volcanic Area (hereafter in this Act referred to as the ''volcanic area'').

(b)(1) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the ''Secretary'') shall file a map and a legal description of the volcanic area established under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map and description shall be on file and available for public inspection in the office of the Forest Supervisor, Gifford Pinchot National Forest and in the office of the Chief of the Forest Service, Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor

revisions of the boundary of the volcanic area, but no boundary revision may exceed 320 acres for any single contiguous area. Such a minor boundary revision may be made by the Secretary only after publication of notice of the proposed revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least 60 days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 3. (a) The exterior boundary of the Gifford Pinchot National Forest is hereby extended to include all lands and waters within the boundaries of the volcanic area. Lands and interests therein acquired pursuant to section 4 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ACQUISITION

SEC. 4. (a) The Secretary shall

acquire all lands and interests in lands within the boundaries of the volcanic area by donation, exchange, or purchase with donated or appropriated funds, except as provided in subsection (c). Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange.

(b) In recognition of the rapidly deteriorating nature of much of the timber in the volcanic area, any timber acquired pursuant to this section shall be valued for purposes of any acquisition under subsection (a) at an amount not less than the fair market value of such timber on July 1, 1982.

(c)(1) Notwithstanding any other provision of law, the Secretary shall exchange lands and interests in lands in accordance with the provisions of this subsection. With respect to the lands and interests in lands referred to in paragraphs (2) and (3), the Secretary may exercise the authorities of subsection (a) only to the extent necessary to acquire any lands or interests in lands which are not acquired pursuant to the provisions of this subsection.

(2) If Burlington Northern Incorporated, offers to the United States the following described lands and interests therein, consisting of _______ acres of land, more or less,

the Secretary shall accept such lands and interests therein:

[DESCRIPTION OF LANDS TO BE INSERTED]

Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Burlington Northern Incorporated, all right, title, and interest of the United States to the following described national forest system lands and interests therein, consisting of _______ acres of land, more or less, subject to the reservations noted in the following description (and subject to any additional reservations provided pursuant to paragraph (4)):

[DESCRIPTION OF LANDS TO BE INSERTED]

(3) If the Weyerhaeuser Company offers to the United States the following described lands and interests therein, consisting of _______ acres of land, more or less, the Secretary shall accept such lands and interests therein:

[DESCRIPTION OF LANDS TO BE INSERTED]

Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described national forest system lands and interests therein, consisting of _______ acres of land, more or less, subject to the reservations noted in the following description (and subject to any additional reservations provided pursuant to paragraph (4)):

[DESCRIPTION OF LANDS TO BE INSERTED]

(4) Except as provided in paragraph 7, the instruments of conveyance respecting the lands and interests exchanged under this subsection may contain such reservations as may be agreed upon by the Secretary and Burlington Northern Incorporated, or the Weyerhaeuser Company, as the case may be, including reservations with respect to the conveyance of mineral and geothermal rights.

(5) It is the sense of the Congress that the transactions necessary to effect the conveyances of title to lands referred to in this subsection should be completed within ninety days after the date of enactment of this Act. In the case of mineral and geothermal rights, such transactions shall be completed within one year after such enactment. The rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.

(6) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduccion in the values of the lands or interests therein, caused by a direct action on the part of the current land owner, below that which formed the basis for the exchanges provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred, caused by direct action on the part of the current land owner, the Secretary shall not carry out the

exchange for those lands or interests so affected under this subsection, and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with the provisions of subsection (a).

(7) With the exception of those lands and interests acquired by the United States in accordance with the provisions of subsection (a), any exchange of lands or interests in lands pursuant to this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern Incorporated, or the Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement. Nothing in this Act shall affect any prior contractual obligation of Burlington Northern Incorporated or Weyerhaeuser Company regarding lands owned by them and included in an exchange, nor shall such obligations be transferred by this Act to the United States.

ADMINISTRATION

SEC. 5. (a) The Secretary shall administer the volcanic area as a separate unit of the Gifford Pinchot National Forest, in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act.

(b) The Secretary shall manage the volcanic area to protect the geologic, ecologic, and cultural resources found there in as natural a state as possible, allowing primarily natural geologic forces and ecological succession to continue unimpeded, except that--

(1) the Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the volcanic area or (B) cause substantial damage to significant resources adjacent to the volcanic area, and

(2) in the case of any emergency which may threaten human life or property, the Secretary, acting through authorized personnel of the Forest Service, may take any action which such personnel deem necessary for the protection of human life or property.

Any action taken under paragraph (1) shall be the minimum necessary to prevent or reduce the unacceptable endangerment or damage, and any such action (other than emergency action to control fire) shall be based on a written finding of need. Such finding shall be based on an assessment of alternative courses of action.

(c) The Secretary shall permit the full use of the volcanic area for legitimate scientific study and research, except that the Secretary may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the volcanic area. Nothing in this Act shall be construed to prohibit reasonable use of motorized equipment (including aircraft landings) to place and service scientific equipment or to provide access for research purposes.

(d)(1) The Secretary shall provide for recreational use of the volcanic area, except that the Secretary may impose such restrictions on any visitation within the volcanic area as the Secretary deems necessary for the protection of public health and safety, the resources of the volcanic area, and scientific research activities within the volcanic area. The Secretary shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs.

(2) Roads or other developed facilities within the volcanic area should be located generally in areas which were developed prior to the 1980 eruption. Roads no longer needed for proper administration of the volcanic area shall be obliterated by man-made actions or by allowing natural forces to occur.

(3) Existing or developed roads within the volcanic area shall not be used for commercial forestry activities, except when the Secretary determines--

(A) that such use is necessary for activities carried out in connection with timber salvage contracts awarded by the Forest Service prior to the date of enactment of this Act; or

(B) on a case by case basis after notice and opportunity for public hearing, that such use is necessary for commercial forestry activities carried out on non-Federal lands adjacent to the volcanic area, that there is no reasonable alternative route available, and that such activities (i) will not impair the resources described in section 1, and (ii) will be consistent with the provisions of this Act.

(e) Subject to valid existing rights, all lands and waters within the volcanic area are hereby withdrawn from disposition under the public land laws, from location, entry, and patent under the United States mining laws, from the operation of the United States mineral leasing laws, and from the operation of the Geothermal Steam Act of 1970. Any mining activity carried out pursuant to valid existing rights shall be conducted in such manner as will maintain the water quality in existence in the affected area immediately prior to the commencement of such activity.

(f) Except for timber salvage contracts awarded by the Forest Service before the date of enactment of this Act and except as provided for in subsection (b), no commercial timber harvest or water resource developments shall be allowed within the volcanic area .

(g) The Secretary shall permit hunting and fishing on lands and waters within the volcanic area in accordance with applicable Federal and State law, except that the Secretary may designate zones within the volcanic area where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergenices, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(h) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 2(b), a detailed and comprehensive management plan for the volcanic area. The initial volcanic area management plan may be expressed as an amendment to the October 1981 Mount St. Helens Land Management Plan. Subsequent volcanic area plans shall be integrated with and periodically revised as a component of the Gifford Pinchot land management planning process. The plan shall include but not be limited to:

(1) measures for the preservation of the natural geological and ecological processes and integrity of the resources;

(2) indications of types, locations and general intensities of development and access routes associated with the public understanding, use and enjoyment of the area, including anticipated timetables and costs;

(3) identification and implementation plans for visitor carrying capacities of the area; and

(4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

SCIENTIFIC ADVISORY BOARD

Sec. 6. (a) There is hereby established the Mount St. Helens Scientific Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to the measures needed to protect and manage the natural and scientific values of the volcanic area. The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the volcanic area designed to gain scientific information for future interpretation and enjoyment by visitors to the volcanic area. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines, as follows:

(1) Three members appointed by the Secretary (one of whom shall be a professional employee of the Forest Service);

(2) Two members appointed by the Secretary of the Interior (one of whom shall be a professional employee of the United States Geological Survey);

(3) Two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington (one of whom shall be from the Department of Fisheries and one of whom shall be from the Department of Game); and

(4) Two members appointed by the Chairman of the National Science Foundation.

(c) Each member shall be appointed to serve for a term of three years, except that one of the initial appointe of each appointing official shall serve an initial term of four years, one of the initial appointees of each appointing official shall serve an initial term of two years, and one of the initial appointees of the Secretary shall serve an initial term of one year.

(d) The members of the Board shall be appointed within ninety days of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to potential and ongoing research programs within the volcanic area.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chair, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) The Board shall terminate ten years from the date of its first meeting.

EXPENDITURE OF CERTAIN REVENUES FROM GIFFORD PINCHOT NATIONAL FOREST BY SKAMANIA COUNTY, WASHINGTON

SEC. 7. (a) Notwithstanding the provisions of the last paragraph under the heading ''FOREST SERVICE'' of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expended for the benefit of Skamania County--

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania

County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall not apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) at the end of any fiscal year ending before the date of the enactment of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated for fiscal years commencing after September 30, 1983, such sums as may be necessary to carry out the provisions of this Act.

COMPLIANCE WITH BUDGET ACT

SEC. 9. No authority under this Act to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1983.

AMENDMENTS TO SUBCOMMITTEE SUBSTITUTE TO H.R. 6530

Offered by Mr. Weaver

1. On page 4, line 25, after the words "consisting of", insert: "16,354".

2. On page 5, line 1, after the colon insert in the form shown:

	Acres
T.7N., R.6E	
Section 1 Lots 1, 2, 3 S-1/2NE1/2, N-1/1SE-1/4	310.11
T.8N., R.5E.	
Section 21 All	640
23 All	640
25 All	640
27 All	640
29 All	640
31 All	623.52
33 All	640
35 All	640
T. 8N., R.6E.	
Section 5 All	480.44
7 All	637.58
9 All	640
15 W-1/2	320
17 All	640
19 All	631.76
21 All	640
27 W-1/2	320
29 All	640
31 All	630.44
33 All	640

T.9N., R.5E.

Section 25 All	640

T.9N., R.6E.

Section 5 Lot 1 SE-1/4NE-1/4, SE-1/4	240.41
9 All	640
17 All	640
21 All	640
29 All	640
31 All	639.52
33 All	640 "

3. On page 5, line 8, after the words "consisting of" insert: "2,631".

4. On page 5, line 11 after the colon insert in the form shown:

" **T.7N., R.6E.**	**Acres**
Section 4 All	680.88
6 All	670.04
10 All	640
22 All	640 "

5. On page 5, line 15, after the words "consisting of" insert: "16,765".

6. On page 5, line 16, after the colon, insert in the form shown:

		Acres
" T. 9 N., R. 3 E. 1	S½	320.00
T. 7 N., R. 4 E. 25	NW¼NW¼	40.00
T. 8 N., R. 4 E. 2	All fractional	494.28

T. 9 N., R. 4 E.		
1	All fractional	658.42
3	S½NE¼, S½	400.00
4	Lots 2 & 3, S½N½, S½	560.30
5	S½NE¼, S½	400.00
6	Lot 7, SE¼SW¼, S½SE¼	155.38
7	All fractional	623.44
8	All	640.00
9	All	640.00
11	All	640.00
13	All	640.00
15	E½E½	160.00
16	N½NW¼	80.00
17	N½NE¼	80.00
22	Portion of E½ and E½W½	271. ±
23	All	640.00
24	All	640.00
25	All	640.00
26	N½, SE¼, and a portion of the SW¼,	572±
27	E½. NE ¼, NW½ NE¼	66±
35	A portion of the NE¼	105±
T. 10 N., R. 4 E.		
25	SE¼	160.00
T. 9 N., R. 5 E.		
5	All fractional	640.32
6	All fractional	679.52
7	Lots 1 & 2, NE¼, E½NW¼	340.57
8	N½	320.00
17	All	640.00
19	All fractional	694.72
T. 10 N., R. 5 E.		
5	A portion of the E½NE¼NW¼ and E½	233. +
17	NE¼NE¼, and a portion of the NE¼ and E½SE¼	145. ±
19	A portion of the S½SE¼	20. ±
20	A portion of the S½S½	60. ±
21	E½, E½NW¼, NW¼NW¼, NE¼SW¼, and a portion of the SW¼NW¼, NW¼SW¼	523. +
29	All	640.00
30	NE¼, S½, and a portion of the E½NW¼	550. +
31	All fractional	688.55
32	All	640.00
33	N½	320.00
T. 11 N., R. 5 E.		
32	Lots 1 & 2	16.43[1/]

" Weyerhauser Minerals to be conveyed to Forest Service

	Net Mineral Acres	
Sec. 1, T 9N, R3E	320	
Sec. 25, T 7N, R4E	40	
Sec. 1, T 9N, R4E	658.52	
Sec. 3	320	
Sec. 4	360.30	
Sec. 6	155.38	
Sec. 8	640	
Sec. 9	320	
Sec. 11	640	
Sec. 13	640	
Sec. 15	160±	
Sec. 16	80	
Sec. 17	80	
Sec. 22	271±	
Sec. 23	640	
Sec. 24	640	
Sec. 25	640	
Sec. 26	572±	
Sec. 27	66±	
Sec. 35	105±	
Sec. 32, T 8N, R5E	100±	(Mineral Ownership Only)
Sec. 5, T 9N, R5E	640.32	
Sec. 6	679.52	
Sec. 7	340.57	
Sec. 8	320	
Sec. 17	640	
Sec. 19	694.72	
Sec. 25, T10N, R4E	160	
Sec. 5, T10N, R5E	233±	
Sec. 9	160	(Mineral Ownership Only)
Sec. 11	65±	(Mineral Ownership Only)
Sec. 17	145±	
Sec. 19	20±	
Sec. 20	60±	
Sec. 21	323±	
Sec. 29	640	
Sec. 30	567	
Sec. 31	608.55	
Sec. 32	640	
Sec. 33	320	
	15,184.88	

Minerals to Be Reserved Outside NVA by Weyerhaeuser

Sec. 32, T11N, R5E	16.43 "

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7. On page 5, line 22, after the words "consisting of" insert "4,756".

8. On page 5, line 25, after the colon insert in the form shown:

"Sec.	Twp.	Rge	Description	Acres
6	10 N.	5 E.	Mineral Survey	193.96
7	10 N.	5 E.	Mineral Survey	12.67
28	11 N.	5 E.	Mineral Survey	24.89
29	11 N.	5 E.	Portion of MS 837	5.20
29	8 N.	4 E.	All	640.00
30	8 N.	4 E.	All fractional	604.07
32	8 N.	4 E.	All fractional	702.99
6	13 N.	3 E.	All fractional	652.75
10	14 N.	3 E.	All	640.00
16	14 N.	3 E.	All	640.00
20	14 N.	3 E.	All	640.00 "

"Forest Service Severed Minerals under Weyerhaeuser Surface to Be Conveyed to Weyerhaeuser

	Net Mineral Acres
Sec. 32, T15N, R4E	320.00
Sec. 24, T14N, R2E	640.00
Sec. 4, T14N, R3E	396.48
Sec. 8	640.00
Sec. 12	106.39
Sec. 4, T 7N, R4E	39.73
Sec. 6	233.13
Sec. 10, T 8N, R3E	480.00
Sec. 14	640.00
Sec. 16	627.36
Sec. 20	80.00
Sec. 22	560.00
Sec. 24	645.90
Sec. 26	480.00
Sec. 28	505.68
Sec. 30	120.00
Sec. 32	640.00
Sec. 34	80.00
Sec. 36	640.00
Sec. 6, T 8N, R4E	457.86
	8,532.53

Forest Service Minerals to Be Conveyed to Weyerhaeuser along with Surface

	Net Mineral Acres
Sec. 6, T10N, R5E	193.96
Sec. 7	12.67
Sec. 28, T11N, R5E	24.89
Sec. 29	5.20
Sec. 29, T 8N, R4E	640.00
Sec. 30	604.07
Sec. 32	702.99
Sec. 6, T13N, R3E	652.23
Sec. 10, T14N, R3E	640.00
Sec. 16	640.00
Sec. 20	640.00
	4,756.03

Forest Service Severed Minerals under Third Party Surface to Be Conveyed to Weyerhaeuser

	Net Mineral Acres
Sec. 10, T20N, R8E	240
Sec. 2, T 3N, R4E	319.05
Sec. 22	40.00
Sec. 26, T20N, R17E	320.00
Sec. 8, T20N, R19E	160.00
Sec. 13, T21N, R17E	80.00
Sec. 14, T21N, R16E	320.00
Sec. 27, T22N, R16E	320.00
Sec. 33 W½ NW¼	80
	1,879.05

9. Page 6, line 5, after the word "Incorporated" strike the comma and the remainder of the sentence and insert:

"and such conveyance shall not include any mineral or geothermal rights except as may be agreed to by the Secretary and the company concerned.".

10. Page 6, line 12, strike the word "such" and insert therefore: "the necessary".

EXPLANATION: These amendments provide the specific land exchange language information for the legislative surface rights exchange with Weyerhaeuser and Burlington Northern and mineral rights exchange with Weyerhaeuser Company only.

#1a

AMENDMENT TO HR 6530
Offered by Mr. Weaver

On page 4, line 6, after line 5; add the following sentence: "Those mining claims in the Green River / Polar Star area shall not be acquired without consent of the owner."

Explanation: While valid existing mineral rights are assured within the volcanic area, this amendment makes clear the Act's intent not to acquire the mineral rights in this specific area by any coercive means. The boundary of HR 6530 was drawn purposely to exclude the significant portions of the mining claims in the Green River/Polar Star area. Since that time the owners of the Duval copper mining claims have indicated an interest in selling them, and their opposition to language forbidding acquisition by the United States.

#2

AMENDMENT TO HR 6530

Offered by Mr. Weaver

On page 7, line 5, strike out paragraph (7) and insert in lieu thereof the following:

"(7) The provisions of this subsection (except for the provisions of paragraph (6)) do not authorize the exercise by the Secretary the power of eminent domain, and any exchange of the lands or interests in lands carried out under this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern Incorporated, or the Weyerhaeuser Company, as the case may be ,with the full consent of each of the parties to such agreement. No prior contractual obligation of Burlington Northern Incorporated, or of the Weyerhaeuser Company which may be affected by such exchange shall be assumed by, or otherwise transferred to, the United States in connection with such exchange."

Explanation: This is a clarification of the existing paragraph (7) and brings the Agriculture Committee's bill into agreement with language passed in the Interior Committee. The exchanges specified in subsection (c) are understood to be of equal value and entered into voluntarily by the companies involved. Eliminating the exercise of the power of eminent domain by the Secretary only for those exchanges specified in the bill means that there will be no extra tax advantage enjoyed by the companies as a result.

The change made in the final sentence of this paragraph was to insure that the United States could not be involved in any dispute between the companies and any other party related to lands being exchanged, and to prevent the United States from being held liable for any claims that might be made against the companies exchanging lands with the U.S. Specifically this language better protects the U.S. from assuming responsibility for the disputed value of a contract between International Paper and Burlington Northern Incorporated. The language of this sentence is identical to that of the Bonker-Foley bill as introduced.

AMENDMENT OFFERED BY MR. MORRISON

On page 10, line 5; strike the word "non-Federal".

Amendment to Committee Print - H.R. 5773

Offered by Mr. Morrison

Amend section 5 as follows --

1. page 8, line 25 after the word "area." insert the new subsection designation "(d)" and redesignate the following subsections accordingly; and

2. page 9, line 2 after the word "equipment" insert the following -- "to provide emergency medical service and rescue service (including those provided by state and local governments),"

AMENDMENT TO H.R. 5773

Offered by Mr. Morrison

On page 10, line 25, after "volcanic area." add the following new subsection (g):

"The Secretary may permit, after notice and opportunity for public hearing, commercial timber salvage operations within the boundaries of the volcanic area established under section 2 of this Act if the Secretary deems it necessary in order to reduce the potential of fire. Such salvage operations shall not impair the integrity of the geologic features of the volcanic area."

Renumber the following sections accordingly.

On page 8, line 4, after the words "control fire," add the following: "the potential for fire,".

An amendment to H.R. 6530, offered by Mr. Dorgan

After Sec. 4(c)(7) add the following new section:

"4(d). Any terms, conditions, or obligations imposed by the Act of July 2, 1864 (13 Stat. 365) that apply to lands and interests in lands exchanged under this Act by the Burlington Northern Inc. shall apply in equivalent manner to lands and interests in lands obtained by the Burlington Northern Inc. under this Act."